HEARING DATE: Tuesday, August 1, 2017 at 9:30 A.M. STATE OF RHODE ISLAND SUPERIOR COURT PROVIDENCE, SC

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RHODE ISLAND PATIENT)
ADVOCACY COALITION)
FOUNDATION (RIPAC) d/b/a)
RIPAC; JANE DOE, I;)
JANE DOE, II,)
Plaintiffs,)
V.)) C.A. NO. PC-2017-2989
۷.)
TOWN OF SMITHFIELD,)
Defendant.)
)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

I. <u>INTRODUCTION</u>¹

The plaintiffs, Jane Doe I ("Doe I"), Jane Doe II ("Doe II"), and the Rhode Island Patient Advocacy Coalition d/b/a RIPAC ("RIPAC")(collectively "plaintiffs") hereby submit this Memorandum of Law in support of their Motion for a Preliminary Injunction ("Motion"). The Motion seeks to bar the defendant, Town of Smithfield ("defendant" or "Smithfield"), from enforcing Ordinance § 4.4L ("Ordinance") because it directly violates the rights of patients granted by General Assembly through the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act ("Act").²

¹ As of the date of the filing of this Memorandum, Smithfield has not contested the case in any manner and has not answered the plaintiffs' Complaint.

² North Smithfield, North Kingstown, and Johnston have enacted similar ordinances since Smithfield enacted the Ordinance. These ordinance all wrongfully override the General Assembly. This case thus requires immediate action from the Court so that, pursuant to the Act and consistent with the medical determinations of their medical practitioners, patients across the state are able to access medicine and treatment for their debilitating medical conditions.

The Ordinance (a) infringes upon the rights of the plaintiffs established by the Act;

(b) harms the health and wellbeing of the plaintiffs by restricting their access to medical

treatment for their debilitating medical condition; (c) breaches the privacy rights of the

plaintiffs by requiring the exposure of their confidential and protected health care

information; and (d) unjustly discriminates against the plaintiffs based upon their debilitating

medical condition and status as a duly licensed patient cardholders.

As ground for its Motion, the plaintiffs asserts as follows:

- 1. Smithfield's Ordinance directly conflicts with the rights and protections granted by the General Assembly through the Act regarding the use of and access to medical marijuana. As a matter of well-established law, the Act is superior to the Ordinance and the Ordinance is unenforceable.
- 2. The plaintiffs have, and are, suffering irreparable harm because they are being restricted from accessing medicine and treatment for their debilitating medical condition as well as be having their privacy and confidentiality violated.
- 3. The Act, and the correlating regulations from DOH and DBR, occupy the field of medical marijuana. The Act is comprehensive in nature. It does not provide opportunity for municipalities to override the General Assembly, DOH or DBR, or to make medical decisions in place of medical practitioners under the pretext of a zoning ordinance.
- 4. The balance of equities are in the plaintiffs' favor. The plaintiffs are suffering harm to their health on a daily basis, while no harm will be done to Smithfield if an injunction is imposed. Further, the interest, safety, and wellbeing of the public is served by enforcing laws passed by the elected Legislature and by allowing patients to access prescribed medicine that benefits their health.
- 5. The Act has been in place for over ten years, and the imposition of an injunction will merely preserve the status quo established by the Act.

Though the defendant may seek to distract from the merits of this case by conflating issues, introducing politics, levying procedural attacks, and inducing fear about marijuana generally, the facts in this matter are not in dispute and the applicable law is well established.

This case <u>is not about</u> moral opinions towards marijuana, the efficacy of medical marijuana, the alleged harms associated with medical marijuana, or any alleged abuses in the medical marijuana program. This case <u>is about</u> the rights of patients, which are long established by the General Assembly, to access medicine and treatment for their debilitating medical condition. The General Assembly has already debated the merits of medical marijuana, and has consistently and repeatedly strengthened the program so that all Rhode Islanders may safely access medicine pursuant to a practitioners' written certification.

Accordingly, the sole issue before the Court is whether the plaintiffs have satisfied the requisite elements for a preliminary injunction to issue. The plaintiffs meet this burden for the reasons articulated herein, and respectfully request that this Court <u>GRANT</u> their Motion for a Preliminary Injunction and <u>ENJOIN</u> the town of Smithfield from enforcing or implementing any aspect of ordinance § 4L.

II. FACTS AND BACKGROUND

a. Medical Marijuana Act and Regulations

The facts leading up to the instant matter are not in dispute and are straightforward. <u>See Complaint</u>, attached hereto as **Exhibit A**. A brief review of the history of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act is nonetheless informative. The General Assembly passed the Act in 2005. <u>See Act</u>, attached hereto as **Exhibit B**. The Act was vetoed by then Governor Carcieri on June 29, 2005, but the veto was overridden by the General Assembly. Specifically, the Senate overrode the veto in June 2005 with the House following suit in January 2006.

The Act initially included a sunset provision so that the program would automatically terminate on June 30, 2007. The General Assembly, however, voted to remove the sunset provision in May 2007. This amendment was also vetoed by Governor Carcieri on June 4, 2007. The Governor's veto was overridden once more by the Senate and House on June 20 and 21, 2007, respectively. The Act has now been in place for well over ten years, and has undergone numerous amendments with the most recent occurring in 2016.

Included in its coverage, the Act establishes the following: (1) the process by which an individual can become a "qualifying patient"; (2) the debilitating conditions that qualify an individual to become a "qualifying patient"; (3) the "written certification" that a practitioner must make for an individual to become a "qualifying patient"; (4) the process by which an individual can become a caregiver for a patient; (5) rules and restrictions relating to cooperative cultivation; (6) rules and restrictions relating to the various cultivation licenses; (7) plant and possession limits for the various types of cardholders; (8) the process by which one becomes an "authorized purchaser"; (9) the number and operation of compassion centers; and (10) the protections for qualifying cardholders from arrest, prosecution, or penalty. <u>See R.I.G.L. § 21-28.6-1 et seq</u>.

The Act further establishes: (11) protections for qualifying cardholders as to school, employers, or landlords; (12) a presumption that a cardholder is engaged in the medical use of marijuana; (13) the ability of a caregiver to receive reimbursement for costs associated with cultivating medication for their patient; (14) protections for practitioners who provide written certifications to individuals; (15) the number of premises that a patient cardholder and primary caregiver can cultivate at; (16) the ability of caregiver or patient cardholders to

give medical marijuana to fellow patient or caregivers with whom they are not connected; (17) the requirement that the DOH promulgate regulations to govern the medical marijuana program; (18) the requirement that the DBR promulgate regulations to govern the medical marijuana program; (19) the information that qualifying patients and caregivers must provide to the DOH relative to a change in name, address, primary caregiver, or authorized purchaser; and (20) Health Insurance Portability and Accountability Act of 1996 protection for various materials provided by qualifying patients. <u>See R.I.G.L. § 21-28.6-1 et seq</u>.

The Act additionally establishes: (21) the creation of a criminal offense for individuals who breach the confidentiality of information obtained pursuant to the act; (22) the punishment for a breach of confidentiality crime (up to 180 days in jail and a one thousand dollar fine); (23) the parameters of the use of medical marijuana with respect to when and where patients may use their medication; (24) the creation of an affirmative defense for qualifying patients as to any prosecution involving marijuana; (25) punishments for exceeding plant counts; (26) the process by which the DOH can revoke registration identification cards; (27) the detailed articulation of rules and requirements as to the operation of compassion centers; (28) the detailed rules and requirements as to cooperative cultivations, including the various permits and inspections that must occur; (29) the use of medical marijuana plant tags to be attached to marijuana plants cultivated pursuant to the act; (30) the circumstances under which a cardholder's plant tags can be revoked; (31) the creation and regulation of licensed cultivators and the various rules, requirements, permits, and inspections for the licenses; and (32) immunity provided to licensed cultivators. See R.I.G.L. § 21-28.6-1 et seq.

As directed by the General Assembly in the Act, the Department of Health ("DOH") propounded regulations to govern the medical marijuana program in 2006. Much like the Act, the DOH has revised the regulations on multiple occasions with the most recent revision in March 2010. <u>See Department of Health Medical Marijuana Regulations</u>, attached hereto as **Exhibit C**. Following the 2016 amendments to the Act, the Department of Business Regulations ("DBR") was also charged with enforcing and implementing various provisions of the Act, primarily as it relates to new cultivator classifications and the use of plant tags to be utilized by all individuals cultivating marijuana under the Act. <u>See Department of Business Regulations Medical Marijuana Program Regulations</u>, attached hereto as **Exhibit D**. As directed, DBR has propounded these regulations.

b. Program and Plaintiffs

Since the program's inception, nearly 18,000 Rhode Islanders have become registered patients.³ Among those are plaintiffs, Doe I and Doe II. Both Doe I and Doe II have been diagnosed with a debilitating medical condition, have received a written certification from a practitioner,⁴ applied for and received a registry identification card, and continue to be duly licensed patients. Under the Act, both Doe I and Doe II are legally allowed to "possess an amount of marijuana that does not exceed twelve (12) mature marijuana plants...two and

³ http://www.providencejournal.com/news/20170527/ri-marijuana-dispensaries-would-double-under-legislation ⁴ While not expressly noted in the act or the regulations, it is a widely held belief that state medical marijuana statutes do not explicitly use "prescribe" as the means for a doctor to recommend the use of medical marijuana as such action could impact the doctor's prescription registration with the Drug Enforcement Agency. For all intents and purposes, a written certification is a prescription, as it is defined as "the qualifying patient's medical records, and a statement signed by a practitioner, stating that, in the practitioner's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. R.I.GL. § 21-28.6-3.

one-half (2.5) ounces of dried usable marijuana or its equivalent, and twelve and one half (12.5) ounces of wet marijuana." <u>See</u> R.I.G.L. § 21-28.6-4(a).

In addition to these limits, a patient cardholder, such as Doe I and Doe II, "shall be allowed to possess a reasonable amount of unusable marijuana, including up to twelve (12) seedlings that are accompanied by valid medical marijuana tags purchased from the Department of Business Regulation." <u>See R.I.G.L. § 21-28.6-4(f)</u>. Under the Act, the patient has the option of appointing a primary caregiver who may cultivate medication for the patient's use. <u>See R.I.G.L. § 21-28.6-4(e)</u>.

Given the changing legal landscape relative to the rules and regulations propounded by the State, RIPAC plays a pivotal role in educating individuals and entities interested in becoming involved in the medical marijuana program. This includes everything from instructing qualified cardholders on marijuana cultivation techniques to testifying before the General Assembly on bills that impact the program. In short, RIPAC has been involved in nearly every aspect of the medical marijuana program since its inception. RIPAC also works with various other non-profits and advocacy based organizations entities spanning from the Rhode Island American Civil Liberties Union to the Rhode Island Medical Society.

c. Smithfield's Ordinance

Notwithstanding the all-encompassing Act, and its correlating regulations from two state agencies, Smithfield passed a zoning Ordinance on April 18, 2017, regarding medical marijuana. See Town of Smithfield Zoning Ordinance § 4.4L, attached hereto as **Exhibit E**.

To say the least, the Ordinance greatly hinders the medical marijuana program and, according to Smithfield's Town Solicitor, is designed to be "as stringent as possible."⁵

The Ordinance, among other things: (1) limits patient cultivation to the patient cardholder's primary residence; (2) requires the owner of the patient cardholder's residence to provide written and notarized acknowledgement and approval of the proposed use; (3) requires that the patient cardholder apply for approvals and inspections with the Smithfield Fire Department; (4) requires that the patient cardholder apply for a zoning certificate; (5) requires that the Smithfield Building Official review applications for permits; and (6) requires that the patient cardholder or licensed contractor apply for Zoning, Building, Electrical, Mechanical, and Plumbing Permits.

More specifically, the Ordinance: (7) requires that the aforementioned Zoning Certificate include, at a minimum, (a) a detailed narrative of the proposed cultivation operation for two plants, (b) registration with the Rhode Island State Police, (c) proof of approval by the Smithfield Bureau of Fire Prevention, (d) building plans signed and stamped by a Rhode Island architect or engineer, (e) evidence of approved sewer or ISDS service. The Ordinance further requires that patients (8) demonstrate to the building official that (a) the area used for growing is secured by two locked doors, (b) that the growing area has two means of egress, (c) that the growing area is not within 10 feet of a heat source, (d) that the area shall have "proper ventilation", (e) that the growing area implement carbon charcoal filters, (f) that smoke alarms and detectors are installed.

⁵ http://www.providencejournal.com/news/20170425/ris-top-pot-regulator-says-communities-trying-to-restrict-legal-grows-could-face-legal-problems

> The Ordinance additionally: (9) limits patients to two mature and two immature plants; (10) prohibits caregiver cultivation; (11) prohibits residential cooperation cultivation; (12) prohibits non-residential cooperative cultivation; (13) requires a special use permit for any compassion center to exist; (14) provides extensive onerous restrictions on the operation of any potential compassion center; (15) makes odor a violation of law; and (16) subjects violations of the ordinance to Penalties and Enforcement, which include civil fines, legal action in District Court, and the right of the Town Solicitor to institute legal action such as injunctions or abatements.

d. Patients' Harms

As a direct result of the Ordinance, the plaintiffs, members of RIPAC, and other cardholding members of the public are suffering irreparable harm. The zoning Ordinance ignores the Act and makes medical decisions in place of medical practitioners by limiting the amount of medicine that the plaintiff and other patients may use and access to treat their debilitating medical condition. The plaintiffs and patients have consequently had their right and ability to access medicine and treatment for their debilitating medical conditions severely limited if not, in practical terms, made inaccessible.

The plaintiffs have further been placed in an environment in which their private and confidential health information must, first, be widely disseminated and reviewed by numerous departments within the Town of Smithfield before they may begin the process of accessing medical treatment. The plaintiffs are rightfully fearful that they will be subject to undue scrutiny, stigma, and even the undeserved attention of law enforcement should they continue to access their medication.

e. <u>The Litigation and Instant Motion</u>

Subsequent to the passage of the Ordinance, for the reasons described herein, the plaintiffs filed a three count complaint on June 22, 2017. The Complaint seeks (1) a declaratory judgment as to the validity of the Ordinance; (2) a preliminary injunction barring enforcement of the Ordinance; and (3) attorneys' fees under the Equal Access to Justice for Individuals and Small Businesses Act. As of the filing of the Motion for a Preliminary Injunction, Smithfield has not contested this case in any manner and has not answered the plaintiff's Complaint at all or in the time period prescribed by the Superior Court Rules of Civil Procedure.

III. STANDARD OF REVIEW

"[T]he decision to grant a preliminary injunction rests within the sound discretion of the hearing justice." Iggy's Doughboys, Inc. v. Giroux, 729 A.2d 701, 705 (R.I. 1999). "In deciding whether to issue a preliminary injunction, the hearing justice should determine whether the moving party (1) has a reasonable likelihood of success on the merits, (2) will suffer irreparable harm without the requested injunctive relief, (3) has the balance of the equities, including the possible hardships to each party and to the public interest, tip in its favor, and (4) has shown that the issuance of a preliminary injunction will preserve the status quo." Id. (citing The Fund For Community Progress v. United Way of Southeastern New England, 695 A.2d 517, 521 (R.I. 1997)).

IV. <u>ARGUMENT</u>

a. <u>The Plaintiffs Have A Reasonable Likelihood Of Success On The</u> <u>Merits Because, As A Matter Of Well Established Law, The Ordinance</u> <u>Is Preempted By State Law.</u>

The issues presented in this case involve determinations of law, and do not require any factual findings, testimony, or the introduction of evidence. Neither the existence, nor the content of the Act or Ordinance are in dispute, and each may be recognized by judicial notice. Instead, the Court must make the legal determination of whether the Act preempts the Ordinance. Simply stated, state laws passed by the General Assembly are superior to municipal ordinances passed by a Town Council. A pointed review of constitutional authority clarifies this principle of law beyond reproach.

i. <u>State Law is Superior to Municipal Ordinances, and the</u> <u>Ordinance's Language Expressly Conflicts With The Act and</u> <u>Rights Of Patients That Are Established By The General</u> <u>Assembly By And Through the Act.</u>

Rhode Island's Constitution articulates that it "<u>shall be the supreme law of the state</u>, and any law inconsistent therewith shall be void [and the] general assembly shall pass all laws necessary to carry this Constitution into effect." R.I. Const. art. VI, sec. 1 (emphasis added). Rhode Island's Constitution further defines the extent to which municipalities are able to govern local matters, providing that "[e]very city and town shall have the power to...enact and amend local laws relating to its property, affairs and government not inconsistent with this Constitution and laws enacted by the general assembly in conformity with the powers reserved to the general assembly." R.I. Const. art. XIII, sec. 2 (emphasis added). Regarding these "powers," Rhode Island's Constitution declares that "the general assembly shall have the power to act in relation to the property, affairs and government of any city or town by general laws which shall apply alike to all cities and towns, but which shall not affect the form of government of any city or town." R.I. Const. art. XIII, sec 4 (emphasis added).

Upon these unassailable, constitutional statements of law, our Supreme Court has provided that it is "a fundamental principle that municipal ordinances are inferior in status and subordinate to the laws of the state." <u>Wood v. Peckham</u>, 98 A.2d 669, 670 (R.I. 1953). Smithfield has nonetheless knowingly overreached, and enacted an Ordinance that directly conflicts with state law and, more specifically, that restricts the statutory rights of patients with debilitating medical conditions.

A side by side comparison of the language of the Act and the Ordinance reveals that the vast majority of the Ordinance directly conflicts with the Act and its correlating regulations.⁶ The Act does not (1) specify where a patient can cultivate; (2) require a landlord to provide written certification; (3) require approvals and inspections with local fire departments for patient cultivation; (4) require a zoning certificate; or (5) require review from municipal Building Officials for patient cultivation. The Ordinance, however, ignores and conflicts with the Act by (1) prohibiting all co-operative and caregiver cultivations; (2) drastically reducing the number of plants that patients can cultivate, and (3) dictating a number of onerous restrictions a patient must pass before being allowed to cultivate two mature and immature plants. Likewise—despite all being permitted by the Act—the

⁶ Rather than recite each direct conflict between the Act and Ordinance, the plaintiffs direct the Court to paragraphs forty-one (41) through fifty-nine (59) of their Complaint. <u>See Exhibit A</u>.

Ordinance eradicates caregiver cultivation, residential cooperative cultivation, non-residential cooperative cultivation, and cultivator license cultivations.

1. <u>Plant Cultivation Limitations</u>

The Act expressly provides that a qualifying patient cardholder may have "an amount of marijuana that does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, [and] two and one-half (2.5) ounces of usable marijuana." Section 4.4L(D)(1) of the Ordinance states that "Patient Cultivation shall only be allowed at the Patient Cardholder's primary residence" while § 4.4L(D)(5) eliminates a qualifying patient cardholder's ability to cultivate twelve mature marijuana plants. It limits a qualifying patient cardholder to an amount of marijuana that does not exceed two (2) mature plants and two and one-half (2.5) ounces of usable marijuana. The conflict between the Act and the Ordinance is blatant.

2. <u>Disclosures and Prerequisites</u>

The egregiousness of the Ordinance is made particularly clear by its many patient disclosure requirements. The Act does not require these disclosures to town and state officials, and in fact prohibits them. The Act explicitly states that it "shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$1,000) fine, for any person, including an employee or official of…local government, to breach the confidentiality of information obtained pursuant to this chapter." R.I.G.L. § 21-28.6-6(k). It continues that "applications and supporting information submitted by qualifying patients…are confidential and protected under [HIPAA], and shall be exempt from the provisions of [the Rhode Island Access to Public Records Act] and not subject to disclosure,

except to authorized employees of the DOH as necessary to perform official duties of the department, and pursuant to subsection (j)." R.I.G.L. § 21-28.6-6(i)(1). This confidentiality is reiterated in the DOH regulations, § 7.0.

Nonetheless, the Ordinance establishes procedures that violate the confidentiality provisions explicitly built into the Act and reiterated in the DOH and DBR regulations. Section 4.4L(D)(2) of the Ordinance states that the "Patient Cardholder shall apply for all appropriate approvals and inspections with the Smithfield Fire Department" and "shall apply for all appropriate Zoning, Building, Electrical, Mechanical, and Plumbing Permits as required by the Rhode Island State Building Code." Section 4.4L(D)(3) continues that the "Application for a Zoning Certificate shall include, at a minimum, the following documentation: (a) A detailed and accurate narrative description of the proposed cultivation operation; (b) Proof of registration with the Rhode Island State Police if required by State law; (c) Proof of approval of the proposed project by the Smithfield Bureau of Fire Prevention; (d) Building plans signed and stamped by a Rhode Island licensed architect or engineer, including project certification if required by Section 128.0 of the Rhode Island State Building Code; and (c) Evidence of approved sever or ISDS service."

Similarly, § 4.4L(D)(4) of the Ordinance states that "The Patient Cardholder shall demonstrate to the Building Official that the following requirements have been met: (a) That the area used for growing is secured by locked doors; (b) That the area used for growing has two (2) means of egress; (c) That the area used for growing shall not be within ten (10) feet of a heating or other ignition source such as an electric, propane, natural gas or oil fired furnace or heater, or such larger distance as may be required by manufacturer specifications;

(d) That the area used for growing shall have proper ventilation to mitigate the risk of mold; (e) That the area used for growing shall have carbon filters installed to reduce odors and that proper measures are to be employed to prevent odors from reaching neighboring properties; and (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department."

Moreover, the method for maintaining a patient's confidentiality and privacy while obtaining the zoning, building, electrical, mechanical, and plumbing permits is unaddressed by the Ordinance and does not appear to be of concern to Smithfield. Smithfield instead attempts to institute an end-around of the Act's confidentiality provisions by requiring these permits from a medical marijuana patient. These requirements, of course, invite and enable undue scrutiny of patients and place purposefully cumbersome hurdles before any patient before he or she may access treatment for their medical condition.

3. Arrest, Prosecution, or Penalty

Further, the Ordinance blatantly disregards the General Assembly's clear instruction that "a qualifying patient...<u>shall not be subject to arrest, prosecution, or penalty in any</u> <u>manner</u>, or denied any right or privilege, including, but not limited to, civil penalty...for the medical use of marijuana." R.I.G.L. § 21-28.6-4(a) (emphasis added). Because the Ordinance reduces the permissible grow amount from 12 mature plants (as permitted by the Act) to 2 mature plants (as permitted by the Ordinance), a patient growing within the Act's limits is subject to arrest and punishment by Smithfield. For example, if a patient possesses 3 mature plants he or she could be arrested and penalized by Smithfield for violating the Ordinance even though he or she has not violated the Act. This is illogical, and by no means the intention of the General Assembly under any reasonable reading of the Act. These same protections exist for a caregiver as well, and are completely destroyed by the Ordinance's complete prohibition against caregiver grows. The Ordinance thus obliterates the Act's presumption that a patient is engaged in the medical use of marijuana if they possess an amount that does not exceed the amount permitted by the Act. <u>See</u> R.I.G.L. § 21-28.6-4(g).

ii. <u>The Act, And Its Correlating Regulations From The DOH And</u> <u>The DBR, Thoroughly Occupy The Field of Medical Marijuana.</u>

Comprehensively drafted and amended, the Act leaves no room for a municipality to pass an ordinance restricting, either actually or in practice, the rights of patients to access medicine and treatment for their debilitating medical conditions. It is axiomatic that "state laws of statewide application preempt municipal ordinances on the same subject if the Legislature intended that they thoroughly occupy the field." East Greenwich v. O'Neil, 617 A.2d 104, 109 (R.I. 1992) (citing Easton's Point Associates, Inc. v. Coastal Resources Management Council, 559 A.2d 633, 636 (R.I. 1989)). Our Supreme Court has "long recognized the doctrine of implied preemption and do[es] not require a clear statement by the Legislature of its intention to preempt local legislation." <u>O'Neil</u>, 617 A.2d at 109. "Thus [Smithfield's] ordinance will be declared invalid if it disrupts the state's overall scheme of regulation on [medical marijuana]." <u>O'Neil</u>, 617 A.2d at 109. It is with this framework under which this Court must analyze "whether the General Assembly intended that its statutory scheme completely occupy the field of regulation on [medical marijuana]." <u>Grasso</u> Serv.Ctr. v. Sepe, 962 A.2d 1283, 1289 (R.I. 2009) (internal citations omitted).

Here, the sheer volume and detail of the Act, and the corresponding regulations enacted by DOH and DBR at the direction of the General Assembly, display that General

Assembly's intention to occupy the field of medical marijuana. Further, the Act is not only comprehensive in nature and reach, but it has been carefully and repeatedly contemplated by the General Assembly. See R.I.G.L. § 21-28.6-1 et seq.

The General Assembly made multiple legislative findings when enacting the Act that demonstrate its intent to thoroughly govern and occupy the medical marijuana field. It passed the Act "pursuant to its police power to enact legislation for the protection of the health of its citizens." R.I.G.L. § 21-28.6-2. Foundationally, the General Assembly found that medical marijuana has beneficial uses "as found by the National Academy of Sciences' Institute of Medicine in March 1999." <u>Id.</u> The purpose of the Act is thus "to protect patients with debilitating medical conditions, and their physicians and primary caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana." <u>Id.</u>

The General Assembly continued that the Act "is in the state's interests of public safety, public welfare, and the integrity of the medical marijuana program to ensure that the possession and cultivation of marijuana for the sole purpose of medical use for alleviating symptoms caused by debilitating medical conditions is adequately regulated." Id. Thus, the "goal of the medical marijuana program is to create a system that is transparent, safe, and responsive to the needs of patients." Id. "Consequently, the medical marijuana program requires regulation and a comprehensive regulatory structure that allows for oversight over all suppliers of medical marijuana while ensuring both safety and patient access." Id.

Consistent with this finding, the General Assembly assigned this regulatory task to DOH and DBR—<u>not to the municipalities</u>.⁷ The Act expressly provides that DOH is charged with promulgating regulations to govern the manner in which it shall consider applications for, and renewals of, registry identification cards for qualifying patients, primary caregivers, and authorized purchasers. <u>See</u> R.I.G.L. § 21-28.6-5. DOH has indeed met its mandate and promulgated Rules and Regulations Related to the Medical Marijuana Program. <u>See Exhibit B.</u> Similarly, the Act provides that DBR is charged with promulgating regulations to govern cooperative cultivations, medical marijuana plant tags, and licensed cultivators. <u>See</u> R.I.G.L. § 21-28.6-14, § 21-28.6-15, and § 21-28.6-16. Like DOH, DBR has also promulgated Rules and Regulations Related to the Medical Marijuana Program. <u>See</u>

Exhibit C.

Under any reasonable reading of the statute, the Act does not delineate any regulatory responsibility to municipalities. It instead, without ambiguity, assigns the regulation to DOH and DBR. Moreover, the Act most certainly does not allow and/or provide municipalities with the opportunity to make medical decisions for patients with debilitating medical conditions in place of medical practitioners by way of the pretext of a zoning ordinance.

⁷ If the explicit language contained in the Act is not enough, the Final Concise Explanatory Statement for Adoption of Rules and Regulations Related to the Medical Marijuana Program Administered by the DBR and the introduction of the DOH regulations leaves little doubt that the General assembly intended that the state regulate each and every aspect of the medical marijuana program. To be sure, the Final Concise Explanatory Statement notes that the DBR regulations "create a new regulatory framework for the medical marijuana program as administered by DBR in order to ensure program stability, increase safe and dependable access to medical marijuana, and increase oversight and accountability in the program to curtail diversion to the black and grey markets." See Final Concise Explanatory Statement for Adoption of Rules and Regulations Related to the Medical Marijuana Program Administered by the DBR, attached hereto as **Exhibit D**. The statement continues to note that the "regulations also ensure a dependable and diverse supply of medicine for the state's medical marijuana patients." Id. Likewise, the introduction to the DOH regulations make clear that they "are established for the purpose of adopting standards for the implementation of medical marijuana program, including establishment of compassion centers in Rhode Island." See **Exhibit B**.

iii. <u>Analogous Case Law Supports The Court Finding That The</u> <u>Plaintiffs' Have A Significant Likelihood Of Success On The</u> <u>Merits.</u>

1. <u>Rhode Island's O'Neil Case.</u>

The legal principles at issue in the <u>O'Neil</u> case are strikingly similar to the issues currently before the court. In <u>O'Neil</u>, the issue before the Court was whether an East Greenwich ordinance which created a three year moratorium on the construction of high voltage power lines was preempted by Rhode Island General Law. Finding that it was, our Supreme Court noted that "preemption works as a limitation on the exercise of inherent police powers by a governmental body when the purported regulation relates to subject matter on which superior governmental authority exists." <u>O'Neil</u>, 617 A.2d at 109. The Court continued that "the doctrine of implied preemption and do[es] not require a clear statement by the Legislature of its intention to preempt local legislation." <u>Id</u>. That is, "state laws of statewide application preempt municipal ordinances on the same subject if the Legislature intended that they thoroughly occupy the field." <u>Id</u>.

Responding to East Greenwich's arguments relative to being divested of its right to self-government, the Court articulated that municipalities may legislate "as long as its legislation 'is not inconsistent with this Constitution and laws enacted by the general assembly in conformity with the powers reserved to the general assembly." <u>O'Neil</u>, 617 A.2d at 111 (citing R.I. Const. art. XIII, secs 1 and 2). While recognizing East Greenwich's ability to exercise authority over <u>purely local concerns</u>, the Court rejected the idea that a municipality may legislate on matters of state concern as the "General Assembly remains exclusive in those areas." <u>Id.</u> (emphasis added.)

The Court referred to three variables to define whether matters are a local concern versus general in nature. The first variable is "when it appears that uniform regulation throughout the state is necessary or desirable, the matter is likely to be within the state's domain." <u>Id.</u> The second variable is whether a particular matter is traditionally within the control of the state or municipality. <u>Id.</u> The last, and most critical variable, is whether one municipality's action has a significant effect upon people outside the home rule town. <u>Id.</u>

Much like East Greenwich, when Smithfield "adopted its charter, it in effect adopted the general laws of the state." <u>O'Neil</u>, 617 A.2d at 111. In this instance, the Act was passed by the General Assembly and has been part of Rhode Island's General Laws for over ten years. Additionally, the Legislature's intent to occupy the field of provide uniform oversight of medical marijuana is readily apparent through the complex statutory scheme of the Act and the extensive regulations as promulgated by the DBR and DOH.

Moreover, while medical marijuana has a somewhat short history, the program has operated exclusively under the state's control since its inception in 2005 and solidification in 2007 over ten years ago. The Act also does not suggest that municipalities should supersede the authority of the General Assembly, DOH, DBR, and, on the most granular level, medical practitioners as to medical decisions concerning their patients. Prior to April 18, 2017, when the Ordinance was enacted, the municipality of Smithfield had (1) never reviewed a medical marijuana application; (2) never articulated the conditions which qualify for medical marijuana; (3) never set forth rules regarding plant limits; (4) never specified the individuals who can grow marijuana for a patient, or whether caregivers are allowed reimbursement for

their patients. Inversely, the state has done all of these things and much more on a regular basis.

Additionally, the impact of the Ordinance reaches beyond the boundaries of Smithfield. Every medical marijuana patient who has a caregiver residing in Smithfield has been impacted. Their supply of medicine has been unjustly ripped from them. Likewise, any patients who rely upon a residential or commercial cooperative cultivation in Smithfield have been impacted. Further, Smithfield's overreach has emboldened municipalities such as North Smithfield, North Kingstown, and Johnston to enact similar, restrictive ordinances that harm medical marijuana patients in the myriad of ways described herein.

Like the Supreme Court explained in <u>O'Neil</u>, a comprehensive approach to the medical marijuana program "would be impossible if each town were permitted to assert control over" possession and cultivation limits. <u>Id.</u> Taken to its illogical extreme, if each individual municipality restricts the use of medical marijuana, then there is will be no place in Rhode Island permitting the use and access to medical marijuana despite the Act's declarations otherwise. The Act, and the mandate of the General Assembly elected by the citizens of Rhode Island, will be rendered impotent.

By so stringently restricting medical marijuana within its boundaries, Smithfield has declared that the Act applies to all other municipalities other than itself and placed pressure on its neighboring cities and towns to react and, in some instances, carry a greater burden by taking on the responsibilities of Smithfield. Given the need for uniformity in the program, the ability for Rhode Islanders to have consistent and safe access to medicine, and the extraterritorial effect of the ordinance, this Court should find that Smithfield's action was *ultra*

vires of the authority delegated by the home rule charter and was impermissibly one of statewide character, and therefore is preempted by the Act.

iv. Michigan's Ter Beek Case⁸

If the Court is not persuaded by the analogous case law that exists in Rhode Island regarding the preemption doctrine, it can turn to arguably the most similar case to this one in the country for guidance. <u>See, e.g., Ter Beek v. City of Wyoming</u>, 846 N.W.2d 531 (Mich. 2014). In <u>Beek</u>, the City of Wyoming passed a zoning ordinance aimed at eviscerating the medical marijuana program. As a result, a qualifying patient under Michigan's Medical Marijuana Act ("MMMA") filed a declaratory judgment action alleging that the zoning ordinance was preempted by the MMMA. After lengthy procedural travel, the matter ultimately reached the Michigan Supreme Court.

The analysis of the Michigan Supreme Court in <u>Beek</u> aligns with our Supreme Court's preemption analysis. The <u>Beek</u> Court started its explanation by noting that "[t]he required analysis on this point is not complex." <u>Beek</u>, 846 N.W.2d at 541. It first addressed the constitutional underpinning of the doctrine and the fact that Wyoming's power to adopt resolutions and ordinances was limited to municipal concerns and is subject to the Michigan constitution. <u>Id.; cf.</u> R.I. Const. art. XIII, secs. 2 and 4.

The <u>Beek</u> Court further defined the parameters of the Michigan preemption doctrine, providing that a city "is precluded from enacting an ordinance if...the ordinance is in direct conflict with the state statutory scheme, or...if the state statutory scheme preemptions the

⁸ The Court even envisioned this exact challenge before the Court and cited <u>Beek</u> when deciding <u>Callaghan v. Darlington</u> <u>Fabrics Corp.</u>, No. PC-2014-5680, 2017 R.I. Super. LEXIS 88, at *1 (R.I. Super. Ct. May 23, 2017).

ordinance by occupying the field of regulation which the municipality seeks to enter, to the exclusion of the ordinance, even where there is no direct conflict between the two schemes of regulation." <u>Id.; cf. O'Neil</u>, 617 A.2d at 109. Additionally, and as specifically applicable here, the <u>Beek</u> Court reiterated that a "direct conflict exists when 'the ordinance permits what the statute prohibits or the ordinance prohibits what the statute permits." <u>Id.</u> (quoting <u>Llewellyn</u>, 257 N.W.2d at 904, n.4).

Thus, upon reviewing the subject ordinance and the MMMA, the <u>Beek</u> Court held that "the ordinance directly conflicts with the MMMA by permitting what the MMMA expressly prohibits—the imposition of a 'penalty in any manner' on a registered qualifying patient whose medical use of marijuana falls within the scope of § 4(a)'s immunity." <u>Beek</u>, 846 N.W.2d at 541. The parallels to the Beek case to the instant litigation are direct.⁹ Repeatedly, when compared, the Act grants rights and protections concerning medical marijuana that the Ordinance then (attempts to) take away. Consequently, this Court may turn to <u>Beek</u> for guidance, and should find that "[Smithfield's Ordinance] directly conflicts with the [Act]." <u>Beek</u>, 846 N.W.2d at 541.

⁹ For example, the "immunity" language within the MMMA and the Act are strikingly similar. Indeed, the MMMA, § 4(a) states: "A qualifying patient who has been issued and possesses a registry identification card **is not subject to** arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act..." MCL § 333.26424, § 4(a) (emphasis added). Rhode Island's Act provides: "A qualifying patient cardholder who has in his or her possession a registry identification card **shall not be subject to** arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana..." R.I.G.L. §21.28.6-4(a) (emphasis added)

b. <u>Plaintiffs Will Suffer Irreparable Harm Without The Requested</u> <u>Injunctive Relief Because Their Access To Medicine And Treatment</u> <u>For Their Debilitating Medical Condition Has Been Restricted.</u>

Our Supreme Court has advised that the "moving party seeking a preliminary injunction must demonstrate that it stands to suffer some irreparable harm that is presently threatened or imminent and for which no adequate legal remedy exists to restore that plaintiff to its rightful position." <u>Fund for Community Progress v. United Way</u>, 695 A.2d 517, 521 (R.I. 1997). Black's Law Dictionary defines the concept as "an injury that cannot be adequately measured or compensated by money and is therefore often considered remediable by injunction." Black's Law Dictionary (9th ed. 856 "irreparable injury").

Here, the injury to the individual plaintiffs cannot be overstated. Money damages will not make plaintiffs whole. The plaintiffs, like other qualifying patients in Smithfield, have arbitrarily had their ability to access medication prescribed to them by their doctor greatly hindered. They are not able to cultivate their medication in line with state law, nor can they appoint a caregiver who resides in Smithfield to cultivate their medication. Their access to the extremely limited two plant cultivation scheme is further blocked with oppressively burdensome regulatory restrictions not present in the Act or its regulations.

Each day the Ordinance is in effect, the plaintiffs continue to suffer from a lack of access to their medicine and continue to risk their health and wellbeing. Additionally, the confidentially and privacy of the plaintiffs stand to be exposed on account of the many burdens of Ordinance and the permits now required to be obtained by patients and handled by Smithfield's representatives. <u>See Fund for Community Progress</u>, 695 A.2d at 521.

Similarly, despite the Act's protections, the Ordinance requires the plaintiffs to reveal their identities to law enforcement and other government authorities. Though unfair and unjustified, it can be fairly stated that there still remains stigma about marijuana. The Ordinance thus enables, if not invites, undue persecution, overreach, and targeting from individuals believing in the stigma and lacking empathy for the patients. Id. Should these behaviors occur, the associated (and unfair) shadow of being involved in them will continue to affect the plaintiffs' lives and health in numerous professional and personal manners long past the actual act itself. The Court should therefore not allow the plaintiffs to continue to be irreparably injured and should grant the preliminary injunction to stop any further immediate damage to the plaintiffs.

c. <u>The Balance Of Equities Are In Plaintiffs' Favor Because While The</u> <u>Plaintiffs Are Suffering Harm On A Daily Basis, No Harm Is Done To</u> <u>Smithfield If The Injunction Is Imposed.</u>

"[B]efore issuing an injunction, a court must survey the facts and apply the traditional tests for equitable relief." <u>R.I. Tpk. & Bridge Auth. v. Cohen</u>, 433 A.2d 179, 182 (R.I. 1981). "This involves balancing the equities, weighing the hardships to either side, and examining the practicality of imposing the desired relief." <u>Id.</u> In "balancing the equities, a court may [also] consider the interests of third parties and of the public in general." <u>Rose Nulman Park Found. v. Four Twenty Corp.</u>, 93 A.3d 25, 32 (R.I. 2014).

Here, the equities greatly favor the plaintiffs. The plaintiffs are individual, qualified patients who suffer from debilitating medical conditions and who have had their ability to procure and use medicine unduly burdened and restricted. If an injunction is not imposed, the rights of patients such as Doe I and Doe II will be curtailed each and every day. Their ability to access medication, prescribed by a medical practitioner, will be limited while the wheels of justice slowly turn towards resolution with the effect on their health becoming increasingly worse and threatened. If the plaintiffs must meet the onerous requirements of the Ordinance (articulated in detail above), they are being required to do so at the expense of their privacy and confidentiality and at the risk of undue scrutiny by law enforcement and other municipal officials. Further, it can be appreciated that there is a real and immediate chilling effect regarding medical marijuana that has taken hold in Smithfield. Considering the stringent language of the Ordinance, patients are justifiably worried about the consequences of accessing their medicine due to a sincere fear that exposing themselves will result in targeted persecution and loss of their privacy.

On the other hand, Smithfield will not be subjected to any hardship if an injunction is imposed. The Act has been in place for more than a decade, and the Ordinance was passed less than three months ago. Not imposing an injunction will expose the plaintiffs to continued hardship on a daily basis, but imposing an injunction barring enforcement of the Ordinance will not harm or create any practical difficulties for Smithfield. In fact, the only practical difficulty that will occur is to Smithfield's public employees if an injunction is not imposed. Through the Ordinance, Smithfield has asked its public employees and representatives to handle protected, confidential information without any direction and therefore knowingly subjected them criminal and monetary liability.¹⁰ If Smithfield can go a

¹⁰ For reference, the Act provides that it "shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (1,000) fine, for any person, including an employee or official of...local government, to breach the confidentiality of information obtained pursuant to this chapter." R.I.G.L. 121-28.6-6(k).

decade without the Ordinance, a preliminary injunction to preserve the rights of medical marijuana patients while this matter is litigated will not impose any hardships to the town.

Furthermore, Smithfield ostensibly passed the Ordinance in haste. Smithfield greatly curtailed the well-established rights of medical marijuana patients without seeking input from any current medical marijuana program participants or advocacy groups, such as RIPAC. The meeting minutes from the Smithfield Town Council meeting on April 18, 2017, indicate that the Executive Director of RIPAC, JoAnne Leppanen, expressed concerns as to the Ordinance and its impact in the medical marijuana program. Councilwoman Alba responded by asking to have the "matter tabled for further discussion since the patient advocates were not involved in drafting the Ordinance." See Smithfield Meeting Minutes, April 18, 2017, attached hereto as **Exhibit F.** The matter was not tabled, however, and the Ordinance was knowingly passed by Smithfield without input from patients or advocacy groups and—based on the little explanation offered—upon a foundation of unchallenged opinion, unsubstantiated "fact," and manufactured fear.

Additionally, as noted by the Supreme Court in <u>Four Twenty Corp.</u>, the Court may consider the public's interest when deciding whether to impose an injunction. Here, an injunction protects the public's interest as previously explored and recognized by the General Assembly. The General Assembly passed the Act "pursuant to its police power to enact legislation for the <u>protection of the health of its citizens</u>." R.I.G.L. 21-28.6-2(6) (emphasis added). It stated that "[i]t is in the <u>state's interests of public safety</u>, <u>public welfare</u>, and the integrity of the medical marijuana program to ensure that the possession and <u>cultivation of marijuana for the sole purpose of medical use</u>." Id. at (7) (emphasis added).

The General Assembly continued that the "goal of the medical marijuana program is to create a system that is transparent, safe, and <u>responsive to the needs of patients</u>." <u>Id.</u> at (8). These sentiments are echoed by the DBR and DOH regulations.

Thus, the balance of the equities favor the plaintiffs, and no hardship will befall Smithfield if the Court imposes an injunction. There are no practical difficulties that will result from imposing an injunction; only that the over ten year's old status quo established by the Act will remain in place. Moreover, as found by our Legislature, the public's health and safety is protected by allowing patients to access medical marijuana; not by restricting that access. It is also undoubtedly in the public's interest for laws passed by the elected General Assembly to be given deference and enforced. Lastly, it should be noted that by restricting lawful, regulated access to medical marijuana, Smithfield may actually be pushing patients towards dangerous and unregulated black market to access medicine and treatment for their debilitating medical conditions; a result contrary to the public's safety and interests, detrimental to the state as a whole, and precisely what the DBR regulations attempt to limit.

d. <u>The Imposition Of An Injunction Will Preserve The Status Quo</u> <u>Because The Act Has Been Successfully In Place For Over Ten Years.</u>

Deference should be given to the status quo prescribed by the General Assembly while this matter is litigated. Rhode Island's medical marijuana program, and the rights and protections it establishes, have existed for more than a decade. By statutory decree, the status quo is that qualifying patients in Rhode Island, with the benefit of confidentiality and protection from penalty, may access medical marijuana to treat their debilitating medical conditions. By enacting the Ordinance, Smithfield suddenly departed from a decade of

precedent, and drastically altered the medical marijuana landscape. Imposing an injunction will restore the status quo of medical marijuana in Rhode Island while this case is litigated.

V. <u>CONCLUSION</u>

For the reasons stated herein, the plaintiffs respectfully request that the Court

<u>GRANT</u> the preliminary injunction and <u>ENJOIN</u> the town of Smithfield from enforcing or implementing any aspect of Ordinance § 4L.

The Plaintiffs, Jane Doe I, Jane Doe II, and RIPAC By their attorneys,

/s/C. Alexander Chiulli

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CERTIFICATE OF SERVICE

I, C. Alexander Chiulli, hereby certify that I served a copy of the foregoing:

1. Memorandum of Law In Support of Plaintiffs' Motion for a Preliminary Injunction

via the Rhode Island Judiciary's Electronic Filing System on July 17, 2017 to counsel listed below. These documents are available for viewing and/or downloading from Rhode Island Judiciary's Electronic Filing System.

Edmund L. Alves, Jr. ela@blishcavlaw.com Blish & Cavanagh Commerce Center 30 Exchange Terrace Providence, RI 02903-1765

> <u>/s/ C. Alexander Chiulli</u> C. Alexander Chiulli

Exhibit A

(Exhibits to Complaint are not attached)

STATE OF RHODE ISLAND PROVIDENCE, SC	SUPERIOR COURT
RHODE ISLAND PATIENT ADVOCACY COALITION FOUNDATION (RIPAC) d/b/a RIPAC; JANE DOE, I; JANE DOE, II,)))))
Plaintiffs, v.))) C.A. NO. PC-2017-
TOWN OF SMITHFIELD, Defendant.)))

COMPLAINT

<u>I.</u> PARTIES

- 1. The plaintiff, Jane Doe, I ("Doe I"), is a resident of the Town of Smithfield, Providence County, Rhode Island.
- 2. The plaintiff, Jane Doe, II ("Doe II"), is a resident of the Town of Smithfield, Providence County, Rhode Island.
- 3. The plaintiff, Rhode Island Patient Advocacy Coalition Foundation (RIPAC) d/b/a RIPAC ("RIPAC"), is a Domestic Non-Profit Corporation organized under the laws of the State of Rhode Island.
- 4. The defendant, Town of Smithfield, is located in Providence County, Rhode Island.

II. JURISDICTION AND VENUE

- 5. This Court possesses jurisdiction pursuant R.I.G.L. § 9-30-1 et seq in that a declaration of the rights, status, and legal relations of the parties is sought.
- 6. Venue is proper pursuant to R.I.G.L § 9-4-3 and because the Town of Smithfield is located in Providence County, Rhode Island.

<u>III.</u> FACTS

<u>A</u>

<u>THE EDWARD O. HAWKINS AND THOMAS C. SLATER</u> MEDICAL MARIJUANA ACT, R.I.G.L. § 21-28.6-1 *ET SEQ*.

<u>i.</u> LEGISLATIVE FINDINGS

- 7. The General Assembly passed The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I.G.L. § 21-28.6-1 *et seq*, ("Act") governing medical marijuana in the State of Rhode Island, as fully incorporated and attached hereto as <u>Exhibit A</u>.
- 8. The Act, R.I.G.L. § 21-28.6-2(1), finds and declares that "Modern medical research has discovered beneficial uses for marijuana in treating or alleviating pain, nausea, and other symptoms associated with certain debilitating medical conditions . . ."
- 9. The Act, R.I.G.L. § 21-28.6-2(5), finds and declares that "State law should make a distinction between the medical and nonmedical use of marijuana. Hence, the purpose of this chapter is to protect patients with debilitating medical conditions, and their physicians and primary caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana."
- 10. The Act, R.I.G.L. § 21-28.6-2(6), finds and declares that "The general assembly enacts this chapter pursuant to its police power to enact legislation for the protection of the health of its citizens, as reserved to the state in the Tenth Amendment of the United States Constitution."
- 11. The Act, R.I.G.L. § 21-28.6-2(7), finds and declares that "It is in the state's interests of public safety, public welfare, and the integrity of the medical marijuana program to ensure that the possession and cultivation of marijuana for the sole purpose of medical use for alleviating symptoms caused by debilitating medical conditions is adequately regulated."
- 12. The Act, R.I.G.L. § 21-28.6-2(8), finds and declares that "The goal of the medical marijuana program is to create a system that is transparent, safe, and responsive to the needs of patients. Consequently, the medical marijuana program requires regulation and a comprehensive regulatory structure that allows for oversight over all suppliers of medical marijuana while ensuring both safety and patient access."

<u>ii.</u> <u>HEALTH REGULATIONS</u>

- 13. The Act, R.I.G.L. § 21-28.6-5, provides that the Department of Health is charged with promulgating regulations to govern the manner in which it shall consider applications for, and renewals of, registry identification cards for qualifying patients, primary caregivers, and authorized purchasers.
- 14. Pursuant to the Act, R.I.G.L. § 21-28.6-5, the Department of Health has promulgated Rules and Regulations Related to the Medical Marijuana Program ("Health Regulations"), as fully incorporated and attached hereto as <u>Exhibit B</u>.

iii. BUSINESS REGULATIONS

- 15. The Act, R.I.G.L. § 21-28.6-14, § 21-28.6-15, and § 21-28.6-16, provides that the Department of Business Regulation is charged with promulgating regulations to govern cooperative cultivations, medical marijuana plant tags, and licensed cultivators.
- 16. Pursuant to the Act, R.I.G.L. § 21-28.6-14, § 21-28.6-15, and § 21-28.6-16, the Department of Business Regulation has promulgated Rules and Regulations Related to the Medical Marijuana Program Administered ("Business Regulations"), as fully incorporated and attached hereto as **Exhibit C**.

<u>iv.</u> DEBILITATING MEDICAL CONDITION

- 17. The Act, R.I.G.L. § 21-28.6-3(5)(i), states that a "Debilitating medical condition" means "Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, Hepatitis C, post-traumatic stress disorder, or the treatment of these conditions."
- 18. The Act, R.I.G.L. § 21-28.6-3(5)(ii), states that a "Debilitating medical condition" means "A chronic or debilitating disease or medical condition, or its treatment, that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or Crohn's disease; or agitation of Alzheimer's Disease."
- 19. The Act, R.I.G.L. § 21-28.6-3(5)(iii), states that a "Debilitating medical condition" means "Any other medical condition or its treatment approved by the department, as provided for in § 21-28.6-5."

<u>B.</u> THE PLAINTIFFS

- 20. Doe I has been diagnosed with a "debilitating medical condition" as defined under the Act, R.I.G.L. § 21-28.6-3(5).
- 21. Doe I received a written certification from a "practitioner" as defined under the Act, R.I.G.L. § 21-28.6-3(16) that Doe I use medical marijuana to treat her debilitating medical condition.
- 22. Doe I applied for and received a "registry identification card" as defined under the Act, R.I.G.L. § 21-28.6-3(19) for medical marijuana on or about December 2016.
- 23. Doe I has been and continues to be a duly licensed patient "cardholder" as defined under the Act, R.I.G.L. § 21-28.6-3(2).
- 24. Doe I's status as a duly licensed patient cardholder, and information related thereto, is protected and confidential.
- 25. Doe II has been diagnosed with a "debilitating medical condition" as defined under the Act, R.I.G.L. § 21-28.6-3(5).
- 26. Doe II received a written certification from a "practitioner" as defined under the Act, R.I.G.L. § 21-28.6-3(16) that Doe II use medical marijuana to treat her debilitating medical condition.
- 27. Doe II applied for and received a "registry identification card" as defined under the Act, R.I.G.L. § 21-28.6-3(19) for medical marijuana on or about January 2017.
- 28. Doe II has been and continues to be a duly licensed patient "cardholder" as defined under the Act, R.I.G.L. § 21-28.6-3(2).
- 29. Doe II's status as a duly licensed patient cardholder, and information related thereto, is protected and confidential.
- 30. RIPAC's purpose is to educate Rhode Island's medical marijuana patients, caregivers, doctors and others who are interested in medical marijuana and to educate the public about the medical attributes of the use of the cannabis plant and the legal status of use of the cannabis plant.
- 31. RIPAC regularly holds meetings to provide information to its members on various aspects of the medical marijuana program, including but not limited to classroom education on the cultivation of marijuana, notice as to the ever changing legal landscape of the program, and legislation of interest.

- 32. The members of RIPAC consist of medical marijuana patients, caregivers, cultivators, medical practitioners, and general members of the public.
- 33. Doe I and Doe II are members of RIPAC and benefit from its services and advocacy and education efforts in Rhode Island.

<u>C.</u> <u>THE TOWN OF SMITHFIELD'S</u> <u>ZONING ORDINANCE AMENDMENT</u>

- 34. Upon information and belief, there are more than 300 cardholder patients and 46 cardholder caregivers who reside in the Town of Smithfield.
- 35. Notwithstanding significant state governance and regulation, the Town of Smithfield unanimously passed and adopted Zoning Ordinance Amendment § 4.4L on April 18, 2017 ("Ordinance"), as incorporated and attached hereto as <u>Exhibit D</u>.
- 36. Upon information and belief, the Ordinance was passed, in part, because of a presentation provided by the Rhode Island Attorney General's office.
- 37. The Town of Smithfield passed the Ordinance subsequent to the passage and effective date of the Act.
- 38. The Town of Smithfield passed the Ordinance subsequent to the Health Regulations being promulgated by the Department of Health.
- 39. The Town of Smithfield passed the Ordinance subsequent to the Business Regulations being promulgated by the Department of Business Regulation.
- 40. Upon information and belief, the Town of Smithfield passed the Ordinance in an effort to be as stringent as possible with respect to the growth, use, and cultivation of medical marijuana in the Town of Smithfield.

<u>i.</u> <u>MEDICAL MARIJUANA</u> <u>PROHIBITIONS BY ORDINANCE</u>

41. Notwithstanding the Act, Health Regulations, and Business Regulations in their entirety, the Ordinance, § 4.4L(C), states that "Unless specifically authorized by this section, all growing and cultivation of marijuana is prohibited within the boundaries of the Town of Smithfield."

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<u>a.</u> <u>PATIENT CULTIVATION AND POSSESSION</u> <u>PROHIBITIONS BY ORDINANCE</u>

- 42. R.I.G.L. § 21-28.6-4(a) states that "A qualifying patient cardholder who has in his or her possession a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege . . . for the medical use of marijuana; provided, that the qualifying patient cardholder possesses an amount of marijuana that does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana to be set by regulations promulgated by the departments of health and business regulation . . ."
- 43. Notwithstanding R.I.G.L. § 21-28.6-4(a), the Ordinance, § 4.4L(D)(1), states that "Patient Cultivation shall only be allowed at the Patient Cardholder's primary residence."
- 44. Notwithstanding R.I.G.L. § 21-28.6-4(a), the Ordinance, § 4.4L(D)(5), states that: "Patient Cultivation possession limits shall be as follows:

	Mature Plants	Immature Plants (Seedlings) and Unusable Marijuana	Usable Marijuana
Patient Cardholder	2 plants	2 plants	2.5 Ounces

45. Notwithstanding R.I.G.L. § 21-28.6-4(a), the Ordinance, § 4.4L(D)(5), eliminates a qualifying patient cardholder's ability to cultivate twelve mature marijuana plants.

<u>b.</u> <u>CAREGIVER CULTIVATION AND POSSESSION</u> <u>PROHIBITIONS BY ORDINANCE</u>

46. R.I.G.L. § 21-28.6-4(e) states that "A primary caregiver cardholder, who has in his or her possession a registry identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege . . . for assisting a patient cardholder, to whom he or she is connected through the department of health's registration process, with the medical use of marijuana; provided, that the primary caregiver cardholder possesses an amount of marijuana that does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana set in regulations promulgated by the departments of health and business regulation for each qualified patient cardholder to whom he or she is connected through the department of health's registration process."

- 47. Notwithstanding R.I.G.L. § 21-28.6-4(e), the Ordinance, § 4L(E), states that: "Caregiver Cultivation, as defined in this section, shall be prohibited in all Zoning Districts."
- 48. Notwithstanding R.I.G.L. § 21-28.6-4(e), the Ordinance, § 4.4L(E), eliminates a primary caregiver cardholder from assisting a patient cardholder, to whom he or she is connected through the department of health's registration process.

<u>COOPERATIVE CULTIVATION</u> PROHIBITIONS BY ORDINANCE

- 49. R.I.G.L. § 21-28.6-14(a) states that "Two (2) or more qualifying cardholders may cooperatively cultivate marijuana in residential or non-residential locations subject to the following restrictions..."
- 50. Notwithstanding R.I.G.L. § 21-28.6-14(a), the Ordinance, § 4.4L(F)(1), states that: "Residential Cooperative Cultivation, as defined in this section, shall be prohibited in all Zoning Districts."
- 51. Notwithstanding R.I.G.L. § 21-28.6-14(a), the Ordinance, § 4.4L(F)(2), states that: "Non-Residential Cooperative Cultivation, as defined in this section, shall be prohibited in all Zoning Districts."

II. PATIENT CONFIDENTIALITY

- 52. R.I.G.L. § 21-28.6-6(i)(1) states that "Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers, authorized purchaser, and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall be exempt from the provisions of chapter 2 of title 38 et seq. (Rhode Island Access to Public Records Act) and not subject to disclosure, except to authorized employees of the department of health as necessary to perform official duties of the department, and pursuant to subsection (j)."
- 53. R.I.G.L. § 21-28.6-6(k) states that "It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$ 1,000) fine, for any person, including an employee or official of the departments of health, business regulation, public safety, or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter . . ."

- 54. R.I.G.L. § 21-28.6-6.1(j)(1) states that "(1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall be exempt from the provisions of chapter 2 of title 38 et seq. (Rhode Island Access to Public Records Act) and not subject to disclosure, except to authorized employees of the department as necessary to perform official duties of the department, and pursuant to subsection (k) of this section."
- 55. R.I.G.L. § 21-28.6-6.1(l) states that "It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$ 1,000) fine, for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter . . ."
- 56. Notwithstanding R.I.G.L. §§ 21-28.6-4, 21-28.6-6(i)(1), 21-28.6-6(k), 21-28.6-6.1(j)(1), and 21-28.6-6.1(l), the Ordinance, § 4.4L(D)(2), states that "The Patient Cardholder shall apply for all appropriate approvals and inspections with the Smithfield Fire Department."
- 57. Notwithstanding R.I.G.L. §§ 21-28.6-4, 21-28.6-6(i)(1), 21-28.6-6(k), 21-28.6-6.1(j)(1), and 21-28.6-6.1(l), the Ordinance, § 4.4L(D)(2), states that "The Patient Cardholder shall apply for all appropriate Zoning, Building, Electrical, Mechanical, and Plumbing Permits as required by the Rhode Island State Building Code."
- 58. Notwithstanding R.I.G.L. §§ 21-28.6-4, 21-28.6-6(i)(1), 21-28.6-6(k), 21-28.6-6.1(j)(1), and 21-28.6-6.1(l), the Ordinance, § 4.4L(D)(3), states that "The Application for a Zoning Certificate shall include, at a minimum, the following documentation: (a) A detailed and accurate narrative description of the proposed cultivation operation; (b) Proof of registration with the Rhode Island State Police if required by State law; (c) Proof of approval of the proposed project by the Smithfield Bureau of Fire Prevention; (d) Building plans signed and stamped by a Rhode Island licensed architect or engineer, including project certification if required by Section 128.0 of the Rhode Island State Building Code; and (e) Evidence of approved sewer or ISDS service."
- 59. Notwithstanding R.I.G.L. §§ 21-28.6-4, 21-28.6-6(i)(1), 21-28.6-6(k), 21-28.6-6.1(j)(1), and 21-28.6-6.1(l), the Ordinance, § 4.4L(D)(4), states that "The Patient Cardholder shall demonstrate to the Building Official that the following requirements have been met: (a) That the area used for growing is secured by locked doors; (b) That the area used for growing has two (2) means of egress; (c) That the area used for growing shall not be within ten (10) feet of a heating or other ignition source such as an electric, propane, natural gas or oil fired furnace or heater, or such larger distance as may be required by manufacturer specifications; (d) That the area used for growing shall have

proper ventilation to mitigate the risk of mold; (e) That the area used for growing shall have carbon filters installed to reduce odors and that proper measures are to be employed to prevent odors from reaching neighboring properties; and (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department."

<u>IV.</u> COUNTS

<u>COUNT I</u> <u>DECLARATORY RELIEF</u> <u>PURSUANT TO R.I.G.L. § 9-30-1 ET SEQ.</u>

- 60. The plaintiffs reallege and incorporate by reference the allegations contained in all prior paragraphs.
- 61. The Ordinance harms, violates, restricts, and infringes upon the rights of the plaintiffs as comprehensively established by and through the Act and regulated by the Health Regulations and Business Regulations.
- 62. The Ordinance harms and threatens the health and wellbeing of the plaintiffs by, including but not limited to, restricting, preventing, and complicating their access to medical treatment for their debilitating medical condition.
- 63. The Ordinance harms the privacy rights and interests of the plaintiffs by, including but not limited to, exposing, requiring the exposure, and causing the exposure of confidential and protected health care information.
- 64. The Ordinance unjustly targets and discriminates against the plaintiffs based upon their debilitating medical condition status and status as a duly licensed patient cardholders.

WHEREFORE, the plaintiffs respectfully request that this Court: (a) Declare that the Ordinance is contrary to and violates the laws of the State of Rhode Island and Providence Plantations, namely the Act; (b) Award attorneys' fees and costs; and (c) All and any other judgment or relief this Court deems proper and just.

<u>COUNT II</u> <u>EQUAL ACCESS TO JUSTICE FOR SMALL BUSINESS AND INDIVIDUALS</u> <u>PURSUANT TO R.I.G.L. § 42-92-1 ET SEQ.</u>

65. The plaintiffs reallege and incorporate by reference the allegations contained in all prior paragraphs.

- 66. The Town of Smithfield acted without substantial justification in enacting the Ordinance as it on its face and as applied violates, restricts, and infringes upon the rights of the plaintiffs as comprehensively established by and through the Act and regulated by the Health Regulations and Business Regulations.
- 67. The Town of Smithfield acted without substantial justification in enacting the Ordinance as it is discriminatory on its face and as applied.
- 68. Upon conclusion of the instant action and being deemed prevailing parties, the plaintiffs will seek reasonable litigation expenses, including, but not limited to attorneys' fees, witness fees, and other costs and expenses as were reasonably incurred.

WHEREFORE, the plaintiffs respectfully request that this Court: (a) Find and declare the plaintiffs as prevailing parties in this action; (b) Find and declare that the Town of Smithfield acted without substantial justification in passing the Ordinance; (c) Award the plaintiffs reasonable litigation expenses, including, but not limited to attorneys' fees, witness fees, and other costs and expenses as were reasonably incurred; and (d) All and any other judgment or relief this Court deems proper and just.

COUNT III INJUNCTIVE RELIEF

- 69. The plaintiffs reallege and incorporate by reference the allegations contained in all prior paragraphs.
- 70. The plaintiffs will be irreparably harmed if this Court does not grant injunctive relief restraining the enforcement of the Ordinance because they have been and will be restricted from accessing treatment for their debilitating medical conditions.
- 71. The public interest will be substantially harmed if this Court does not grant injunctive relief restraining the enforcement of the Ordinance because the public will continue to be restricted from accessing treatment for their debilitating medical conditions.
- 72. Any alleged harm or prejudice suffered by the Town of Smithfield if enjoined from enforcing the Ordinance is outweighed by the irreparable harm and damage that the plaintiffs and public will continue to suffer if an injunction does not issue enjoining the Town of Smithfield.
- 73. The status quo will be preserved if the Town of Smithfield is restricted from enforcing the Ordinance because medical marijuana in Rhode Island is contemplated and governed by the Act and regulated by the Heath Regulations and Business Regulations.

WHEREFORE, the plaintiffs respectfully request that this Court: (a) Order a preliminary injunction barring enforcement of the Ordinance; (b) Order a permanent injunction barring enforcement of the Ordinance; and (c) All and any other relief this Court deems proper and just.

PLAINTIFFS DEMAND A TRIAL BY JURY AS TO ALL ISSUES AND ALL COUNTS OF PLAINTIFFS' COMPLAINT.

PLAINTIFFS DEMAND A SPEEDY HEARING AS TO ALL ISSUES AND ALL COUNTS OF THE PLAINTIFFS' COMPLAINT PURSUANT TO RULE 57 OF THE SUPERIOR COURT RULES OF CIVIL PROCEDURE.

The Plaintiffs, Jane Doe I, Jane Doe II, and RIPAC By their attorneys,

Matthew R. Plain | R.I. Bar No. 7281 mplain@bartongilman.com C. Alexander Chiulli | R.I. Bar No. 9139 achiulli@bartongilman.com John D. Meara | R.I. Bar No. 8667 jmeara@bartongilman.com Cooperating Attorneys, American Civil Liberties Union Foundation of Rhode Island BARTON GILMAN LLP 10 Dorrance Street, Suite 800 Providence, RI 02903 401.273.7171 | 401.273.2904 - Fax Case Number: PC-2017-2989 Filed in Providence/Bristol County Superior Court Submitted: 7/17/2017 4:55:50 PM Envelope: 1121886 Reviewer: Lynn G.

Exhibit B

Current through the January 2016 Session (Ch. 542)

General Laws of Rhode Island > TITLE 21. FOOD AND DRUGS > CHAPTER 28.6. THE EDWARD O. HAWKINS AND THOMAS C. SLATER MEDICAL MARIJUANA ACT

§ 21-28.6-1. Short title

This chapter shall be known and may be cited as "The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act."

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2005, ch. 442, § 1, and P.L. 2005, ch. 443, § 1, enacted identical versions of this chapter.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

Case Notes

NOTES TO DECISIONS

1. EVIDENTIARY HEARING.

Dismissal under R.I. Gen. Laws § 21-28.6-8 of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. Gen. Laws tit. 21, ch. 28.6, of marijuana charges against defendants was premature as the trial court failed to conduct the evidentiary hearing that was required under § 21-28.6-8(b) to determine whether the § 21-28.6-8(a) elements had been met. State v. Derobbio, 62 A.3d 1113, 2013 R.I. LEXIS 46 (R.I. 2013).

R.I. Gen. Laws § 21-28.6-8 clearly states that charges brought in a prosecution involving marijuana shall be dismissed following an evidentiary hearing where the defendant shows the elements listed in § 21-28.6-8(a); the burden is on a defendant to request an evidentiary

hearing to show that he or she has satisfied the elements listed in § 21-28.6-8(a) and was thus in possession of an amount of medical marijuana that conformed to the limits set forth in the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. Gen. Laws tit. 21, ch. 28.6. State v. Derobbio, 62 A.3d 1113, 2013 R.I. LEXIS 46 (R.I. 2013).

General Laws of Rhode Island

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Current through the January 2016 Session (Ch. 542)

General Laws of Rhode Island > TITLE 21. FOOD AND DRUGS > CHAPTER 28.6. THE EDWARD O. HAWKINS AND THOMAS C. SLATER MEDICAL MARIJUANA ACT

§ 21-28.6-2. Legislative findings

The general assembly finds and declares that:

- (1) Modern medical research has discovered beneficial uses for marijuana in treating or alleviating pain, nausea, and other symptoms associated with certain debilitating medical conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.
- (2) According to the U.S. Sentencing Commission and the Federal Bureau of Investigation, ninety-nine (99) out of every one hundred (100) marijuana arrests in the United States are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marijuana.
- (3) Although federal law currently prohibits any use of marijuana, the laws of Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont, and Washington permit the medical use and cultivation of marijuana. Rhode Island joins in this effort for the health and welfare of its citizens.
- (4) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this chapter does not put the state of Rhode Island in violation of federal law.
- (5) State law should make a distinction between the medical and nonmedical use of marijuana. Hence, the purpose of this chapter is to protect patients with debilitating medical conditions, and their physicians and primary caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.
- (6) The general assembly enacts this chapter pursuant to its police power to enact legislation for the protection of the health of its citizens, as reserved to the state in the Tenth Amendment of the United States Constitution.
- (7) It is in the state's interests of public safety, public welfare, and the integrity of the medical marijuana program to ensure that the possession and cultivation of

marijuana for the sole purpose of medical use for alleviating symptoms caused by debilitating medical conditions is adequately regulated.

(8) The goal of the medical marijuana program is to create a system that is transparent, safe, and responsive to the needs of patients. Consequently, the medical marijuana program requires regulation and a comprehensive regulatory structure that allows for oversight over all suppliers of medical marijuana while ensuring both safety and patient access.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2014, ch. 515, § 2; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provides that the amendment to this section by that act takes effect on September 1, 2014.

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§ 21-28.6-3. Definitions

For the purposes of this chapter:

- (1) "Authorized purchaser" means a natural person who is at least twenty-one (21) years old and who is registered with the department of health for the purposes of assisting a qualifying patient in purchasing marijuana from a compassion center. An authorized purchaser may assist no more than one patient, and is prohibited from consuming marijuana obtained for the use of the qualifying patient. An authorized purchaser shall be registered with the department of health and shall possesses a valid registry identification card.
- (2) "Cardholder" means a person who has been registered or licensed with the department of health or the department of business regulation pursuant to this chapter and possesses a valid registry identification card or license.
- (3) "Commercial unit" means a building, office, suite, or room within a commercial or industrial building for use by one business or person and is rented or owned by that business or person.
- (4)
 - (i) "Compassion center" means a not-for-profit corporation, subject to the provisions of chapter 6 of title 7, and registered under § 21-28.6-12, that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses marijuana, and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder or authorized purchaser.
 - (ii) "Compassion center cardholder" means a principal officer, board member, employee, volunteer, or agent of a compassion center who has registered with the department of health or the department of business regulation and has been issued and possesses a valid, registry identification card.
- (5) "Debilitating medical condition" means:

- (i) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, Hepatitis C, post-traumatic stress disorder, or the treatment of these conditions;
- (ii) A chronic or debilitating disease or medical condition, or its treatment, that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or
- (iii) Any other medical condition or its treatment approved by the department, as provided for in § 21-28.6-5.
- (6) "Department of business regulation" means the Rhode Island department of business regulation or its successor agency.
- (7) "Department of health" means the Rhode Island department of health or its successor agency.
- (8) "Department of public safety" means the Rhode Island department of public safety or its successor agency.
- (9) "Dried, useable marijuana" means the dried leaves and flowers of the marijuana plant as defined by regulations promulgated by the department of health.
- (10) "Dwelling unit" means the room, or group of rooms, within a dwelling used or intended for use by one family or household, or by no more than three (3) unrelated individuals, for living, sleeping, cooking, and eating.
- (11) "Equivalent amount" means the portion of usable marijuana, be it in extracted, edible, concentrated, or any other form, found to be equal to a portion of dried, usable marijuana, as defined by regulations promulgated by the department of health.
- (12) "Licensed cultivator" means a person, as identified in § 43-3-6, who has been licensed by the department of business regulation to cultivate marijuana pursuant to \S 21-28.6-16.
- (13) "Marijuana" has the meaning given that term in § 21-28-1.02(26).
- (14) "Mature marijuana plant" means a marijuana plant that has flowers or buds that are readily observable by an unaided visual examination.
- (15) "Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate a patient cardholder's debilitating medical condition or symptoms associated with the medical condition.

- (16) "Practitioner" means a person who is licensed with authority to prescribe drugs pursuant to chapter 37 of title 5 or a physician licensed with authority to prescribe drugs in Massachusetts or Connecticut.
- (17) "Primary caregiver" means a natural person who is at least twenty-one (21) years old. A primary caregiver may assist no more than five (5) qualifying patients with their medical use of marijuana.
- (18) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition and is a resident of Rhode Island.
- (19) "Registry identification card" means a document issued by the department of health that identifies a person as a registered qualifying patient, a registered primary caregiver, or authorized purchaser, or a document issued by the department of business regulation that identifies a person as a registered principal officer, board member, employee, volunteer, or agent of a compassion center.
- (20) "Seedling" means a marijuana plant with no observable flowers or buds.
- (21) "Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots.
- (22) "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- (23) "Wet marijuana" means the harvested leaves and flowers of the marijuana plant before they have reached a dry useable state, as defined by regulations promulgated by the departments of health and business regulation.
- (24) "Written certification" means the qualifying patient's medical records, and a statement signed by a practitioner, stating that, in the practitioner's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. A written certification shall be made only in the course of a bona fide, practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition or conditions.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2009, ch. 16, § 1; P.L. 2009, ch. 17, § 1; P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2014, ch. 515, § 2; P.L. 2016, ch. 142, art. 14, § 1; P.L. 2016, ch. 415, § 1; P.L. 2016, ch. 416, § 1.

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Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

R.I. Gen. Laws § 21-28.6-3

P.L. 2009, ch. 16, § 1, and P.L. 2009, ch. 17, § 1, enacted identical amendments to this section.

P.L. 2012, ch. 88, § 1, and P.L. 2012, ch. 118, § 1 enacted identical amendments to this section.

This section was amended by three acts (P.L. 2016, ch. 142, art. 14, § 1; P.L. 2016, ch. 415, § 1; P.L. 2016, ch. 416, § 1) as passed by the 2016 General Assembly. Since the acts are not in conflict with each other, the section is set out as amended by all three acts.

P.L. 2016, ch. 415, § 1, and P.L. 2016, ch. 416, § 1 enacted identical amendments to this section.

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provides that the amendment to this section by that act takes effect on September 1, 2014.

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§ 21-28.6-4. Protections for the medical use of marijuana

- (a) A qualifying patient cardholder who has in his or her possession a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana; provided, that the qualifying patient cardholder possesses an amount of marijuana that does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana to be set by regulations promulgated by the departments of health and business regulation. Said plants shall be stored in an indoor facility.
- (b) An authorized purchaser who has in his or her possession a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the possession of marijuana; provided that the authorized purchaser possesses an amount of marijuana that does not exceed two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and this marijuana was purchased legally from a compassion center for the use of their designated qualifying patient.
- (c) A qualifying patient cardholder, who has in his or her possession a registry identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for selling, giving, or distributing, on or before December 31, 2016 to a compassion center cardholder, marijuana of the type, and in an amount not to exceed, that set forth in subsection (a), that he or she has cultivated or manufactured pursuant to this chapter.
- (d) No school, employer, or landlord may refuse to enroll, employ, or lease to, or otherwise penalize, a person solely for his or her status as a cardholder. Provided, however, due to the safety and welfare concern for other tenants, the property, and the

public, as a whole, a landlord may have the discretion not to lease, or continue to lease, to a cardholder who cultivates marijuana in the leased premises.

- (e) A primary caregiver cardholder, who has in his or her possession a registry identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a patient cardholder, to whom he or she is connected through the department of health's registration process, with the medical use of marijuana; provided, that the primary caregiver cardholder possesses an amount of marijuana that does not exceed twelve (12) mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana set in regulations promulgated by the departments of health and business regulation for each qualified patient cardholder to whom he or she is connected through the department of health and business regulation for each qualified patient cardholder to whom he or she is connected through the department of health's registration process.
- (f) A qualifying patient cardholder shall be allowed to possess a reasonable amount of unusable marijuana, including up to twelve (12) seedlings that are accompanied by valid medical marijuana tags. A primary caregiver cardholder shall be allowed to possess a reasonable amount of unusable marijuana, including up to twenty-four (24) seedlings that are accompanied by valid medical marijuana tags and an amount of wet marijuana set in regulations promulgated by the departments of health and business regulation.
- (g) There shall exist a presumption that a cardholder is engaged in the medical use of marijuana if the cardholder:
 - (1) Is in possession of a registry identification card; and
 - (2) Is in possession of an amount of marijuana that does not exceed the amount permitted under this chapter. Such presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the medical condition.
- (h) A primary caregiver cardholder may receive reimbursement for costs associated with assisting a qualifying patient cardholder's medical use of marijuana. Compensation shall not constitute sale of controlled substances.
- (i) A primary caregiver cardholder, who has in his or her possession a registry identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for selling, giving, or distributing, on or before December 31, 2016 to a

compassion center cardholder, marijuana, of the type, and in an amount not to exceed that set forth in subsection (e), if:

- (1) The primary caregiver cardholder cultivated the marijuana pursuant to this chapter, not to exceed the limits of subsection (e); and
- (2) Each qualifying patient cardholder the primary caregiver cardholder is connected with through the department of health's registration process has been provided an adequate amount of the marijuana to meet his or her medical needs, not to exceed the limits of subsection (a).
- (j) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the Rhode Island board of medical licensure and discipline, or by any other business or occupational or professional licensing board or bureau solely for providing written certifications, or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the medical marijuana would likely outweigh the health risks for a patient.
- (k) Any interest in, or right to, property that is possessed, owned, or used in connection with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.
- (1) No person shall be subject to arrest or prosecution for constructive possession, conspiracy, aiding and abetting, being an accessory, or any other offense, for simply being in the presence or vicinity of the medical use of marijuana as permitted under this chapter, or for assisting a qualifying patient cardholder with using or administering marijuana.
- (m) A practitioner, nurse, nurse practitioner, physician's assistant, or pharmacist shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau solely for discussing the benefits or health risks of medical marijuana or its interaction with other substances with a patient.
- (n) A qualifying patient or primary caregiver registry identification card, or its equivalent, issued under the laws of another state, U.S. territory, or the District of Columbia, to permit the medical use of marijuana by a patient with a debilitating medical condition, or to permit a person to assist with the medical use of marijuana by a patient with a debilitating medical condition, shall have the same force and effect as a registry identification card.
- (o) Notwithstanding the provisions of § 21-28.6-4(e), no primary caregiver cardholder shall possess an amount of marijuana in excess of twenty-four (24) mature marijuana plants that are accompanied by valid medical marijuana tags and five (5) ounces of usable

marijuana, or its equivalent, and an amount of wet marijuana set in regulations promulgated by the departments of health and business regulation for patient cardholders to whom he or she is connected through the department of health's registration process.

- (p) A qualifying patient or primary caregiver cardholder may give marijuana to another qualifying patient or primary caregiver cardholder to whom they are not connected by the department's registration process, provided that no consideration is paid for the marijuana, and that the recipient does not exceed the limits specified in § 21-28.6-4.
- (q) Qualifying patient cardholders and primary caregiver cardholders electing to grow marijuana shall only grow at one premises, and this premises shall be registered with the department of health. Except for compassion centers, cooperative cultivations, and licensed cultivators, no more than twenty-four (24) mature marijuana plants that are accompanied by valid medical marijuana tags shall be grown or otherwise located at any one dwelling unit or commercial unit. The number of qualifying patients or primary caregivers residing, owning, renting, growing, or otherwise operating at a dwelling or commercial unit does not affect this limit. The department of health shall promulgate regulations to enforce this provision.
- (r) For the purposes of medical care, including organ transplants, a patient cardholder's authorized use of marijuana shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance.
- (s) Notwithstanding any other provisions of the general laws, the manufacture of marijuana using a solvent extraction process that includes the use of a compressed, flammable gas as a solvent by a patient cardholder or primary caregiver cardholder shall not be subject to the protections of this chapter.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2009, ch. 16, § 1; P.L. 2009, ch. 17, § 1; P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2014, ch. 515, § 2; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

P.L. 2009, ch. 16, § 1, and P.L. 2009, ch. 17, § 1, enacted identical amendments to this section.

P.L. 2012, ch. 88, § 1, and P.L. 2012, ch. 118, § 1 enacted identical amendments to this section.

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provides that the amendment to this section by that act takes effect on September 1, 2014.

Research References & Practice Aids

COLLATERAL REFERENCES.

Construction and Application of Medical Marijuana Laws and Medical Necessity Defense to Marijuana Laws. 50 A.L.R.6th 281.

Propriety of Employer's Discharge of or Failure to Hire Employee Due to Employee's Use of Medical Marijuana. 57 A.L.R.6th 285.

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§ 21-28.6-5. Department of health to issue regulations

- (a) Not later than ninety (90) days after the effective date of this chapter, the department of health shall promulgate regulations governing the manner in which it shall consider petitions from the public to add debilitating medical conditions to those included in this chapter. In considering such petitions, the department of health shall include public notice of, and an opportunity to comment in a public hearing, upon such petitions. The department of health shall, after hearing, approve or deny such petitions within one hundred eighty (180) days of submission. The approval or denial of such a petition shall be considered a final department of health action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the superior court. The denial of a petition shall not disqualify qualifying patients with that condition, if they have a debilitating medical condition as defined in § 21-28.6-3(5). The denial of a petition shall not prevent a person with the denied condition from raising an affirmative defense.
- (b) Not later than ninety (90) days after the effective date of this chapter, the department of health shall promulgate regulations governing the manner in which it shall consider applications for, and renewals of, registry identification cards for qualifying patients, primary caregivers, and authorized purchasers. The department of health's regulations shall establish application and renewal fees that generate revenues sufficient to offset all expenses of implementing and administering this chapter. The department of health may vary the application and renewal fees along a sliding scale that accounts for a qualifying patient's or caregiver's income. The department of health may accept donations from private sources in order to reduce the application and renewal fees.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

P.L. 2012, ch. 88, § 1, and P.L. 2012, ch. 118, § 1 enacted identical amendments to this section.

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§ 21-28.6-6. Administration of department of health regulations

- (a) The department of health shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's regulations:
 - (1) Written certification as defined in § 21-28.6-3(24) of this chapter;
 - (2) Application or renewal fee;
 - (3) Name, address, and date of birth of the qualifying patient; provided, however, that if the patient is homeless, no address is required;
 - (4) Name, address, and telephone number of the qualifying patient's practitioner;
 - (5) Whether the patient elects to grow medical marijuana plants for himself or herself; and
 - (6) Name, address, and date of birth of one primary caregiver of the qualifying patient and one authorized purchaser for the qualifying patient, if any.
- (b) The department of health shall not issue a registry identification card to a qualifying patient under the age of eighteen (18) unless:
 - (1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
 - (2) A parent, guardian, or person having legal custody consents in writing to:
 - (i) Allow the qualifying patient's medical use of marijuana;
 - (ii) Serve as the qualifying patient's primary caregiver or authorized purchaser; and
 - (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.
- (c) The department of health shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within thirty-five (35) days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided

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was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the superior court.

- (d) If the qualifying patient's practitioner notifies the department in a written statement that the qualifying patient is eligible for hospice care or chemotherapy, the department of health shall give priority to these applications when verifying the information in accordance with subsection (c). Effective January 1, 2017, the department of health shall approve or deny a registry identification card to these qualifying patients within five (5) days of receipt of an application. The department of health may identify through regulation a list of other conditions qualifying a patient for expedited application processing.
- (e) The department of health shall issue a registry identification card to the qualifying patient cardholder's primary caregiver, if any, who is named in the qualifying patient's approved application.
 - (1) A primary caregiver applicant or an authorized purchaser applicant shall apply to the bureau of criminal identification of the department of attorney general, department of public safety division of state police, or local police department for a national criminal records check that shall include fingerprints submitted to the Federal Bureau of Investigation. Upon the discovery of any disqualifying information as defined in subdivision (e)(4), and in accordance with the rules promulgated by the director, the bureau of criminal identification of the department of attorney general, department of public safety division of state police, or the local police department shall inform the applicant, in writing, of the nature of the disqualifying information; and, without disclosing the nature of the disqualifying information, shall notify the department, in writing, that disqualifying information has been discovered.
 - (2) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the department of attorney general, department of public safety division of state police, or the local police shall inform the applicant and the department, in writing, of this fact.
 - (3) The department of health shall maintain on file evidence that a criminal records check has been initiated on all applicants seeking a primary caregiver registry identification card or an authorized purchaser registry identification card and the results of the checks. The primary caregiver cardholder shall not be required to apply for a national criminal records check for each patient he or she is connected to through the department's registration process, provided that he or she has applied for a national criminal records check within the previous two (2) years in accordance with this chapter. The department shall not require a primary caregiver

cardholder or an authorized purchaser cardholder to apply for a national criminal records check more than once every two (2) years.

- (4) Information produced by a national criminal records check pertaining to a conviction for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act"), murder, manslaughter, rape, first-degree sexual assault, second-degree sexual assault, first-degree child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon, assault or battery involving grave bodily injury, and/or assault with intent to commit any offense punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the applicant and the department of health disqualifying the applicant. If disqualifying information has been found, the department may use its discretion to issue a primary caregiver registry identification card or an authorized purchaser registry identification card if the applicant's connected patient is an immediate family member and the card is restricted to that patient only.
- (5) The primary caregiver or authorized purchaser applicant shall be responsible for any expense associated with the national criminal records check.
- (6) For purposes of this section, "conviction" means, in addition to judgments of conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances where the defendant has entered a plea of nolo contendere and has received a sentence of probation and those instances where a defendant has entered into a deferred sentence agreement with the attorney general.
- **(f)**
- (i) On or before December 31, 2016, the department of health shall issue registry identification cards within five (5) business days of approving an application or renewal that shall expire two (2) years after the date of issuance.
- (ii) Effective January 1, 2017, and thereafter, the department of health shall issue registry identification cards within five (5) business days of approving an application or renewal that shall expire one year after the date of issuance.
- (iii) Registry identification cards shall contain:
 - (1) The date of issuance and expiration date of the registry identification card;
 - (2) A random registry identification number;
 - (3) A photograph; and
 - (4) Any additional information as required by regulation or the department of health.

- (g) Persons issued registry identification cards by the department of health shall be subject to the following:
 - (1) A qualifying patient cardholder shall notify the department of health of any change in his or her name, address, primary caregiver, or authorized purchaser; or if he or she ceases to have his or her debilitating medical condition, within ten (10) days of such change.
 - (2) A qualifying patient cardholder who fails to notify the department of health of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$ 150). If the patient cardholder has ceased to suffer from a debilitating medical condition, the card shall be deemed null and void and the person shall be liable for any other penalties that may apply to the person's nonmedical use of marijuana.
 - (3) A primary caregiver cardholder or authorized purchaser shall notify the department of health of any change in his or her name or address within ten (10) days of such change. A primary caregiver cardholder or authorized purchaser who fails to notify the department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$ 150).
 - (4) When a qualifying patient cardholder or primary caregiver cardholder notifies the department of health of any changes listed in this subsection, the department of health shall issue the qualifying patient cardholder and each primary caregiver cardholder a new registry identification card within ten (10) days of receiving the updated information and a ten-dollar (\$ 10.00) fee.
 - (5) When a qualifying patient cardholder changes his or her primary caregiver or authorized purchaser, the department of health shall notify the primary caregiver cardholder or authorized purchaser within ten (10) days. The primary caregiver cardholder's protections as provided in this chapter as to that patient shall expire ten (10) days after notification by the department. If the primary caregiver cardholder or authorized purchaser is connected to no other qualifying patient cardholders in the program, he or she must return his or her registry identification card to the department.
 - (6) If a cardholder or authorized purchaser loses his or her registry identification card, he or she shall notify the department and submit a ten-dollar (\$ 10.00) fee within ten (10) days of losing the card. Within five (5) days, the department shall issue a new registry identification card with new random identification number.
 - (7) Effective January 1, 2019, if a patient cardholder chooses to alter his or her registration with regard to the growing of medical marijuana for himself or herself,

he or she shall notify the department prior to the purchase of medical marijuana tags or the growing of medical marijuana plants.

- (8) If a cardholder or authorized purchaser willfully violates any provision of this chapter as determined by the department, his or her registry identification card may be revoked.
- (h) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.
- (i)
- (1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers, authorized purchaser, and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall be exempt from the provisions of chapter 2 of title 38 et seq. (Rhode Island access to public records act) and not subject to disclosure, except to authorized employees of the department of health as necessary to perform official duties of the department, and pursuant to subsection (j).
- (2) The application for qualifying patient's registry identification card shall include a question asking whether the patient would like the department of health to notify him or her of any clinical studies about marijuana's risk or efficacy. The department of health shall inform those patients who answer in the affirmative of any such studies it is notified of, that will be conducted in Rhode Island. The department of health may also notify those patients of medical studies conducted outside of Rhode Island.
- (3) The department of health shall maintain a confidential list of the persons to whom the department of health has issued registry identification cards. Individual names and other identifying information on the list shall be confidential, exempt from the provisions of Rhode Island access to public information, chapter 2 of title 38, and not subject to disclosure, except to authorized employees of the department of health as necessary to perform official duties of the department.
- (j) Notwithstanding subsection (i), the department of health shall verify to law enforcement personnel whether a registry identification card is valid solely by confirming the random registry identification number or name. This verification may occur through the use of a shared database, provided that any confidential information in this database is protected in accordance with subdivision (i)(1).

- (k) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$ 1,000) fine, for any person, including an employee or official of the departments of health, business regulation, public safety, or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter. Notwithstanding this provision, the department employees may notify law enforcement about falsified or fraudulent information submitted to the department.
- (1) On or before the fifteenth day of the month following the end of each quarter of the fiscal year, the department of health shall report to the governor, the speaker of the house of representatives, and the president of the senate on applications for the use of marijuana for symptom relief. The report shall provide:
 - (1) The number of applications for registration as a qualifying patient, primary caregiver, or authorized purchaser that have been made to the department during the preceding quarter, the number of qualifying patients, primary caregivers, and authorized purchasers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registrations revoked, and the number and specializations, if any, of practitioners providing written certification for qualifying patients.
- (m) On or before September 30 of each year, the department of health shall report to the governor, the speaker of the house of representatives, and the president of the senate on the use of marijuana for symptom relief. The report shall provide:
 - (1) The total number of applications for registration as a qualifying patient, primary caregiver, or authorized purchaser that have been made to the department, the number of qualifying patients, primary caregivers, and authorized purchasers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registrations revoked, and the number and specializations, if any, of practitioners providing written certification for qualifying patients;
 - (2) The number of active qualifying patient, primary caregiver, and authorized purchaser registrations as of June 30 of the preceding fiscal year;
 - (3) An evaluation of the costs permitting the use of marijuana for symptom relief, including any costs to law enforcement agencies and costs of any litigation;
 - (4) Statistics regarding the number of marijuana-related prosecutions against registered patients and caregivers, and an analysis of the facts underlying those prosecutions;
 - (5) Statistics regarding the number of prosecutions against physicians for violations of this chapter; and
 - (6) Whether the United States Food and Drug Administration has altered its position regarding the use of marijuana for medical purposes or has approved alternative delivery systems for marijuana.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2009, ch. 16, § 1; P.L. 2009, ch. 17, § 1; P.L. 2010, ch. 110, § 1; P.L. 2010, ch. 229, § 1; P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2014, ch. 515, § 2; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

COMPILER'S NOTES.

In 2005, the compiler redesignated subdivisions (k)(i) - (k)(v) as subdivisions (k)(1) - (k)(5), and substituted "this chapter" for "this act" in subdivision (k)(4).

P.L. 2010, ch. 110, § 1, and P.L. 2010, ch. 229, § 1, enacted identical amendments to this section.

P.L. 2012, ch. 88, § 1, and P.L. 2012, ch. 118, § 1 enacted identical amendments to this section.

This section was amended by three acts (P.L. 2016, ch. 142, art. 14, § 1, P.L. 2016, ch. 415, § 1, and P.L. 2016, ch. 416, § 1) passed by the 2016 General Assembly. The version of this section as amended by P.L. 2016, ch. 142, art. 14, § 1 is set out as § 21-28.6-6. The version of this section as amended by P.L. 2016, ch. 415, § 1, and P.L. 2016, ch. 416, § 1 is set out as § 21-28.6-6.1.

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provide that the amendment to this section by that act takes effect on September 1, 2014.

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§ 21-28.6-7. Scope of chapter

- (a) This chapter shall not permit:
 - (1) Any person to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice;
 - (2) The smoking of marijuana:
 - (i) In a school bus or other form of public transportation;
 - (ii) On any school grounds;
 - (iii) In any correctional facility;
 - (iv) In any public place;
 - (v) In any licensed drug treatment facility in this state; or
 - (vi) Where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.
 - (3) Any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence solely for having marijuana metabolites in his or her system.
- (b) Nothing in this chapter shall be construed to require:
 - (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
 - (2) An employer to accommodate the medical use of marijuana in any workplace.
- (c) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of five hundred dollars (\$ 500) which shall be in addition to any other penalties that may apply for making a false statement for the nonmedical use of marijuana.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2009, ch. 16, § 1; P.L. 2009, ch. 17, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

P.L. 2009, ch. 16, § 1, and P.L. 2009, ch. 17, § 1, enacted identical amendments to this section.

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§ 21-28.6-6.1. Administration of regulations

- (a) The department of health shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's regulations:
 - (1) Written certification as defined in \S 21-28.6-3(24) of this chapter;
 - (2) Application or renewal fee;
 - (3) Name, address, and date of birth of the qualifying patient; provided, however, that if the patient is homeless, no address is required;
 - (4) Name, address, and telephone number of the qualifying patient's practitioner;
 - (5) Name, address, and date of birth of each primary caregiver of the qualifying patient, if any.
- (b) The department of health shall not issue a registry identification card to a qualifying patient under the age of eighteen (18) unless:
 - (1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and
 - (2) A parent, guardian, or person having legal custody consents in writing to:
 - (i) Allow the qualifying patient's medical use of marijuana;
 - (ii) Serve as one of the qualifying patient's primary caregivers; and
 - (iii) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.
- (c) The department shall not issue a registry identification card to a qualifying patient seeking treatment for post-traumatic stress disorder (PTSD) under the age of eighteen (18).
- (d) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within fifteen (15) days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this

section, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the superior court.

- (e) If the qualifying patient's practitioner notifies the department in a written statement that the qualifying patient is eligible for hospice care, the department shall verify the application information in accordance with subsection (d) and issue a registry identification card to the qualifying patient and primary caregivers named in the patient's application within seventy-two (72) hours of receipt of the completed application. The department shall not charge a registration fee to the patient or caregivers named in the application.
- (f) The department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of two (2) primary caregivers per qualifying patient.
 - (1) The primary caregiver applicant shall apply to the bureau of criminal identification of the department of attorney general, state police, or local police department for a national criminal records check that shall include fingerprints submitted to the Federal Bureau of Investigation. Upon the discovery of any disqualifying information as defined in subdivision (f)(4), and in accordance with the rules promulgated by the director, the bureau of criminal identification of the department of attorney general, state police, or the local police department shall inform the applicant, in writing, of the nature of the disqualifying information; and, without disclosing the nature of the disqualifying information, shall notify the department, in writing, that disqualifying information has been discovered.
 - (2) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the department of attorney general, state police, or the local police shall inform the applicant and the department, in writing, of this fact.
 - (3) The department shall maintain on file evidence that a criminal records check has been initiated on all applicants seeking a primary caregiver registry identification card and the results of the checks. The primary caregiver cardholder shall not be required to apply for a national criminal records check for each patient he or she is connected to through the department's registration process, provided that he or she has applied for a national criminal records check within the previous two (2) years in accordance with this chapter. The department shall not require a primary caregiver cardholder to apply for a national criminal records check more than once every two (2) years.

- (4) Information produced by a national criminal records check pertaining to a conviction for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act"), murder, manslaughter, rape, first-degree sexual assault, second-degree sexual assault, first-degree child molestation, second-degree child molestation, kidnapping, first-degree arson, second-degree arson, mayhem, robbery, burglary, breaking and entering, assault with a dangerous weapon, assault or battery involving grave bodily injury, and/or assault with intent to commit any offense punishable as a felony or a similar offense from any other jurisdiction shall result in a letter to the applicant and the department disqualifying the applicant. If disqualifying information has been found, the department may use its discretion to issue a primary caregiver registry identification card if the applicant's connected patient is an immediate family member and the card is restricted to that patient only.
- (5) The primary caregiver applicant shall be responsible for any expense associated with the national criminal records check.
- (6) For purposes of this section "conviction" means, in addition to judgments of conviction entered by a court subsequent to a finding of guilty or a plea of guilty, those instances where the defendant has entered a plea of nolo contendere and has received a sentence of probation and those instances where a defendant has entered into a deferred sentence agreement with the attorney general.
- (g) The department shall issue registry identification cards within five (5) days of approving an application or renewal that shall expire two (2) years after the date of issuance. Registry identification cards shall contain:
 - (1) The date of issuance and expiration date of the registry identification card;
 - (2) A random registry identification number;
 - (3) A photograph; and
 - (4) Any additional information as required by regulation or the department.
- (h) Persons issued registry identification cards shall be subject to the following:
 - (1) A patient cardholder shall notify the department of any change in the patient cardholder's name, address, or primary caregiver; or if he or she ceases to have his or her debilitating medical condition, within ten (10) days of such change.
 - (2) A patient cardholder who fails to notify the department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$ 150). If the patient cardholder has ceased to suffer from a debilitating medical condition, the card shall be deemed null and void and the person shall be

liable for any other penalties that may apply to the person's nonmedical use of marijuana.

- (3) A primary caregiver cardholder or compassion center cardholder shall notify the department of any change in his or her name or address within ten (10) days of such change. A primary caregiver cardholder or compassion center cardholder who fails to notify the department of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$ 150).
- (4) When a patient cardholder or primary caregiver cardholder notifies the department of any changes listed in this subsection, the department shall issue the patient cardholder and each primary caregiver cardholder a new registry identification card within ten (10) days of receiving the updated information and a ten-dollar (\$ 10.00) fee. When a compassion center cardholder notifies the department of any changes listed in this subsection, the department shall issue the cardholder a new registry identification and a ten-dollar (\$ 10.00) fee. When a compassion center cardholder notifies the department of any changes listed in this subsection, the department shall issue the cardholder a new registry identification card within ten (10) days of receiving the updated information and a ten-dollar (\$ 10.00) fee.
- (5) When a patient cardholder changes his or her primary caregiver, the department shall notify the primary caregiver cardholder within ten (10) days. The primary caregiver cardholder's protections, as provided in this chapter as to that patient, shall expire ten (10) days after notification by the department. If the primary caregiver cardholder is connected to no other patient cardholders in the program, he or she must return his or her registry identification card to the department.
- (6) If a cardholder loses his or her registry identification card, he or she shall notify the department and submit a ten-dollar (\$ 10.00) fee within ten (10) days of losing the card. Within five (5) days, the department shall issue a new registry identification card with new, random identification number.
- (7) If a cardholder willfully violates any provision of this chapter as determined by the department, his or her registry identification card may be revoked.
- (i) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.
- (j)
- (1) Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act of 1996, and shall be exempt from the provisions of chapter 2 of title 38 et seq.

(Rhode Island access to public records act) and not subject to disclosure, except to authorized employees of the department as necessary to perform official duties of the department, and pursuant to subsection (k) of this section.

- (2) The application for qualifying patient's registry identification card shall include a question asking whether the patient would like the department to notify him or her of any clinical studies about marijuana's risk or efficacy. The department shall inform those patients who answer in the affirmative of any such studies it is notified of that will be conducted in Rhode Island. The department may also notify those patients of medical studies conducted outside of Rhode Island.
- (3) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Individual names and other identifying information on the list shall be confidential, exempt from the provisions of Rhode Island access to public information, chapter 2 of title 38, and not subject to disclosure, except to authorized employees of the department as necessary to perform official duties of the department.
- (k) Notwithstanding subsection (j) of this section, the department shall verify to law enforcement personnel whether a registry identification card is valid solely by confirming the random registry identification number or name.
- (1) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$ 1,000) fine, for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter. Notwithstanding this provision, the department employees may notify law enforcement about falsified or fraudulent information submitted to the department.
- (m) On or before January 1 of each odd numbered year, the department shall report to the house committee on health, education and welfare and to the senate committee on health and human services on the use of marijuana for symptom relief. The report shall provide:
 - (1) The number of applications for registry identification cards, the number of qualifying patients and primary caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registry identification cards revoked, and the number of practitioners providing written certification for qualifying patients;
 - (2) An evaluation of the costs permitting the use of marijuana for symptom relief, including any costs to law-enforcement agencies and costs of any litigation;
 - (3) Statistics regarding the number of marijuana-related prosecutions against registered patients and caregivers, and an analysis of the facts underlying those prosecutions;

- (4) Statistics regarding the number of prosecutions against physicians for violations of this chapter; and
- (5) Whether the United States Food and Drug Administration has altered its position regarding the use of marijuana for medical purposes or has approved alternative delivery systems for marijuana.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1;
P.L. 2009, ch. 16, § 1; P.L. 2009, ch. 17, § 1; P.L. 2010, ch. 110, § 1; P.L. 2010, ch. 229, § 1;
P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2014, ch. 515, § 2; P.L. 2016, ch. 415, § 1;
P.L. 2016, ch. 416, § 1.

Annotations

Notes

COMPILER'S NOTES.

This section was amended by three acts (P.L. 2016, ch. 142, art. 14, § 1, P.L. 2016, ch. 415, § 1, and P.L. 2016, ch. 416, § 1) passed by the 2016 General Assembly. The version of this section as amended by P.L. 2016, ch. 142, art. 14, § 1 is set out as § 21-28.6-6. The version of this section as amended by P.L. 2016, ch. 415, § 1, and P.L. 2016, ch. 416, § 1 is set out as § 21-28.6-6.1.

P.L. 2016, ch. 415, § 1, and P.L. 2016, ch. 416, § 1 enacted identical amendments to this section.

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§ 21-28.6-8. Affirmative defense and dismissal

- (a) Except as provided in § 21-28.6-7, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution involving marijuana, and such defense shall be presumed valid where the evidence shows that:
 - (1) The qualifying patient's practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the potential benefits of using marijuana for medical purposes would likely outweigh the health risks for the qualifying patient; and
 - (2) The qualifying patient was in possession of a quantity of marijuana that was not more than what is permitted under this chapter to ensure the uninterrupted availability of marijuana for the purpose of alleviating the person's medical condition or symptoms associated with the medical condition.
- (b) A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the defendant shows the elements listed in subsection (a) of this section.
- (c) Any interest in, or right to, property that was possessed, owned, or used in connection with a qualifying patient's use of marijuana for medical purposes shall not be forfeited if the qualifying patient demonstrates the qualifying patient's medical purpose for using marijuana pursuant to this section.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2014, ch. 515, § 2.

Annotations

Notes

COMPILER'S NOTES.

In 2005, the compiler made a stylistic change in subsection (b).

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provides that the amendment to this section by that act takes effect on September 1, 2014.

Case Notes

NOTES TO DECISIONS

1. EVIDENTIARY HEARING.

Dismissal under R.I. Gen. Laws § 21-28.6-8 of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. Gen. Laws tit. 21, ch. 28.6, of marijuana charges against defendants was premature as the trial court failed to conduct the evidentiary hearing that was required under § 21-28.6-8(b) to determine whether the § 21-28.6-8(a) elements had been met. State v. Derobbio, 62 A.3d 1113, 2013 R.I. LEXIS 46 (R.I. 2013).

R.I. Gen. Laws § 21-28.6-8 clearly states that charges brought in a prosecution involving marijuana shall be dismissed following an evidentiary hearing where the defendant shows the elements listed in § 21-28.6-8(a); the burden is on a defendant to request an evidentiary hearing to show that he or she has satisfied the elements listed in § 21-28.6-8(a) and was thus in possession of an amount of medical marijuana that conformed to the limits set forth in the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. Gen. Laws tit. 21, ch. 28.6. State v. Derobbio, 62 A.3d 1113, 2013 R.I. LEXIS 46 (R.I. 2013).

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§ 21-28.6-9. Enforcement

- (a) If the department of health fails to adopt regulations to implement this chapter within one hundred twenty (120) days of the effective date of this act, a qualifying patient may commence an action in a court of competent jurisdiction to compel the department to perform the actions mandated pursuant to the provisions of this chapter.
- (b) If the department of health or the department of business regulation fails to issue a valid registry identification card in response to a valid application submitted pursuant to this chapter within thirty-five (35) days of its submission, the registry identification card shall be deemed granted and a copy of the registry identification application shall be deemed a valid registry identification card.
- (c) The department of health and the department of business regulation shall revoke and shall not reissue, the registry identification card of any cardholder or licensee who is convicted of; placed on probation; whose case is filed pursuant to § 12-10-12 where the defendant pleads nolo contendere; or whose case is deferred pursuant to § 12-19-19 where the defendant pleads nolo contendere for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act") or a similar offense from any other jurisdiction.
- (d) If a cardholder exceeds the possession limits set forth in §§ 21-28.6-4 or 21-28.6-14, he or she shall be subject to arrest and prosecution under chapter 28 of title 21 ("Rhode Island Controlled Substances Act").

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2014, ch. 515, § 2; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provides that the amendment to this section by that act takes effect on September 1, 2014.

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§ 21-28.6-10. Severability

If any provision of this chapter or its application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter, which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

History

P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1; P.L. 2007, ch. 72, § 1; P.L. 2007, ch. 495, § 1; P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2007, ch. 72, § 1, and P.L. 2007, ch. 495, § 1, enacted identical amendments to this section.

P.L. 2012, ch. 88, § 1, and P.L. 2012, ch. 118, § 1 enacted identical amendments to this section.

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§ 21-28.6-11. Repealed.

Annotations

Notes

REPEALED SECTIONS.

This section (P.L. 2005, ch. 442, § 1; P.L. 2005, ch. 443, § 1), providing for the sunset of this chapter on June 30, 2007, was repealed by P.L. 2007, ch. 72, § 2, effective June 21, 2007, and by P.L. 2007, ch. 495, § 2, effective June 22, 2007.

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§ 21-28.6-12. Compassion centers

(a) A compassion center registered under this section may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers or authorized purchasers. Except as specifically provided to the contrary, all provisions of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, §§ 21-28.6-1 -- 21-28.6-11, apply to a compassion center unless they conflict with a provision contained in § 21-28.6-12.

(b) Registration of compassion centers--authority of the departments of health and business regulation

- (1) Not later than ninety (90) days after the effective date of this chapter, the department of health shall promulgate regulations governing the manner in which it shall consider applications for registration certificates for compassion centers, including regulations governing:
 - (i) The form and content of registration and renewal applications;
 - (ii) Minimum oversight requirements for compassion centers;
 - (iii) Minimum record-keeping requirements for compassion centers;
 - (iv) Minimum security requirements for compassion centers; and
 - (v) Procedures for suspending, revoking, or terminating the registration of compassion centers that violate the provisions of this section or the regulations promulgated pursuant to this subsection.
- (2) Within ninety (90) days of the effective date of this chapter, the department of health shall begin accepting applications for the operation of a single compassion center.
- (3) Within one hundred fifty (150) days of the effective date of this chapter, the department of health shall provide for at least one public hearing on the granting of an application to a single compassion center.
- (4) Within one hundred ninety (190) days of the effective date of this chapter, the department of health shall grant a single registration certificate to a single compassion center, providing at least one applicant has applied who meets the requirements of this chapter.

- (5) If at any time after fifteen (15) months after the effective date of this chapter, there is no operational compassion center in Rhode Island, the department of health shall accept applications, provide for input from the public, and issue a registration certificate for a compassion center if a qualified applicant exists.
- (6) Within two (2) years of the effective date of this chapter, the department of health shall begin accepting applications to provide registration certificates for two (2) additional compassion centers. The department shall solicit input from the public, and issue registration certificates if qualified applicants exist.
- (7)
- (i) Any time a compassion center registration certificate is revoked, is relinquished, or expires on or before December 31, 2016, the department of health shall accept applications for a new compassion center.
- (ii) Any time a compassion center registration certificate is revoked, is relinquished, or expires on or after January 1, 2017, the department of business regulation shall accept applications for a new compassion center.
- (8) If at any time after three (3) years after the effective date of this chapter and on or before December 31, 2016, fewer than three (3) compassion centers are holding valid registration certificates in Rhode Island, the department of health shall accept applications for a new compassion center. If at any time on or after January 1, 2017, fewer than three (3) compassion centers are holding valid registration certificates in Rhode Island, the department of business regulation shall accept applications for a new compassion center. No more than three (3) compassion centers may hold valid registration certificates at one time.
- (9) Any compassion center application selected for approval by the department of health on or before December 31, 2016, or selected for approval by the department of business regulation on or after January 1, 2017, shall remain in full force and effect, notwithstanding any provisions of this chapter to the contrary, and shall be subject to state law adopted herein and rules and regulations adopted by the departments of health and business regulation subsequent to passage of this legislation.
 - (c) Compassion center and agent applications and registration
 - (1) Each application for a compassion center shall include:
 - (i) A non-refundable application fee paid to the department in the amount of two hundred fifty dollars (\$ 250);

(ii) The proposed legal name and proposed articles of incorporation of the compassion center;

(iii) The proposed physical address of the compassion center, if a precise address has been determined, or, if not, the general location where it would be located. This may include a second location for the cultivation of medical marijuana;

(iv) A description of the enclosed, locked facility that would be used in the cultivation of marijuana;

- (v) The name, address, and date of birth of each principal officer and board member of the compassion center;
- (vi) Proposed security and safety measures that shall include at least one security alarm system for each location, planned measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana, as well as a draft, employee-instruction manual including security policies, safety and security procedures, personal safety, and crime-prevention techniques; and

(vii) Proposed procedures to ensure accurate record keeping;

(2)

- (i) For applications submitted on or before December 31, 2016, any time one or more compassion center registration applications are being considered, the department of health shall also allow for comment by the public and shall solicit input from registered qualifying patients, registered primary caregivers; and the towns or cities where the applicants would be located;
- (ii) For applications submitted on or after January 1, 2017, any time one or more compassion center registration applications are being considered, the department of business regulation shall also allow for comment by the public and shall solicit input from registered qualifying patients, registered primary caregivers; and the towns or cities where the applicants would be located.
- (3) Each time a compassion center certificate is granted, the decision shall be based upon the overall health needs of qualified patients and the safety of the public, including, but not limited to, the following factors:

(i) Convenience to patients from throughout the state of Rhode Island to the compassion centers if the applicant were approved;

- (ii) The applicant's ability to provide a steady supply to the registered qualifying patients in the state;
- (iii) The applicant's experience running a non-profit or business;
- (iv) The interests of qualifying patients regarding which applicant be granted a registration certificate;
- (v) The interests of the city or town where the dispensary would be located;

(vi) The sufficiency of the applicant's plans for record keeping and security, which records shall be considered confidential health-care information under Rhode Island law and are intended to be deemed protected health-care information for purposes of the Federal Health Insurance Portability and Accountability Act of 1996, as amended; and

(vii) The sufficiency of the applicant's plans for safety and security, including proposed location, security devices employed, and staffing;

- (4) A compassion center approved by the department of health on or before December 31, 2016, shall submit the following to the department before it may begin operations:
 - (i) A fee paid to the department in the amount of five thousand dollars (\$ 5,000);
 - (ii) The legal name and articles of incorporation of the compassion center;
 - (iii) The physical address of the compassion center; this may include a second address for the secure cultivation of marijuana;
 - (iv) The name, address, and date of birth of each principal officer and board member of the compassion center; and
 - (v) The name, address, and date of birth of any person who will be an agent of, employee, or volunteer of the compassion center at its inception.
- (5) A compassion center approved by the department of business regulation on or after January 1, 2017, shall submit the following to the department before it may begin operations:
 - (i) A fee paid to the department in the amount of five thousand dollars (\$ 5,000);

(ii) The legal name and articles of incorporation of the compassion center;

- (iii) The physical address of the compassion center; this may include a second address for the secure cultivation of marijuana;
- (iv) The name, address, and date of birth of each principal officer and board member of the compassion center;
- (v) The name, address, and date of birth of any person who will be an agent of, employee, or volunteer of the compassion center at its inception.
- (6) Except as provided in subdivision (7), the department of health or the department of business regulation shall issue each principal officer, board member, agent, volunteer, and employee of a compassion center a registry identification card or renewal card after receipt of the person's name, address, date of birth; a fee in an amount established by the department of health or the department business regulation; and notification to the department of health or the department

of business regulation by the department of public safety division of state police that the registry identification card applicant has not been convicted of a felony drug offense or has not entered a plea of nolo contendere for a felony drug offense and received a sentence of probation. Each card shall specify that the cardholder is a principal officer, board member, agent, volunteer, or employee of a compassion center and shall contain the following:

(i) The name, address, and date of birth of the principal officer, board member, agent, volunteer, or employee;

- (ii) The legal name of the compassion center to which the principal officer, board member, agent, volunteer, or employee is affiliated;
- (iii) A random identification number that is unique to the cardholder;
- (iv) The date of issuance and expiration date of the registry identification card; and
- (v) A photograph, if the department of health or the department of business regulation decides to require one.
- (7) Except as provided in this subsection, neither the department of health nor the department of business regulation shall issue a registry identification card to any principal officer, board member, agent, volunteer, or employee of a compassion center who has been convicted of a felony drug offense or has entered a plea of nolo contendere for a felony drug offense and received a sentence of probation. If a registry identification card is denied, the compassion center will be notified in writing of the purpose for denying the registry identification card. A registry identification card may be granted if the offense was for conduct that occurred prior to the enactment of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act or that was prosecuted by an authority other than the state of Rhode Island and for which the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act would otherwise have prevented a conviction.
 - (i) All registry identification card applicants shall apply to the department of public safety division of state police for a national criminal identification records check that shall include fingerprints submitted to the federal bureau of investigation. Upon the discovery of a felony drug offense conviction or a plea of nolo contendere for a felony drug offense with a sentence of probation, and in accordance with the rules promulgated by the department of health and the department of business regulation, the department of public safety division of state police shall inform the applicant, in writing, of the nature of the felony and the department of business regulation, in writing, without disclosing the nature of the felony, that a felony drug offense conviction or a plea of nolo contendere for a felony drug offense with probation has been found.
 - (ii) In those situations in which no felony drug offense conviction or plea of nolo contendere for a felony drug offense with probation has been found, the department of public safety division

of state police shall inform the applicant and the department of health or the department of business regulation, in writing, of this fact.

(iii) All registry identification card applicants shall be responsible for any expense associated with the criminal background check with fingerprints.

- (8) A registry identification card of a principal officer, board member, agent, volunteer, or employee shall expire one year after its issuance, or upon the expiration of the registered organization's registration certificate, or upon the termination of the principal officer, board member, agent, volunteer or employee's relationship with the compassion center, whichever occurs first.
- (9) A compassion center cardholder shall notify and request approval from the department of business regulation of any change in his or her name or address within ten (10) days of such change. A compassion center cardholder who fails to notify the department of business regulation of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$ 150).
- (10) When a compassion center cardholder notifies the department of health or the department of business regulation of any changes listed in this subsection, the department shall issue the cardholder a new registry identification card within ten (10) days of receiving the updated information and a ten-dollar (\$ 10.00) fee.
- (11) If a compassion center cardholder loses his or her registry identification card, he or she shall notify the department of health or the department of business regulation and submit a ten dollar (\$ 10.00) fee within ten (10) days of losing the card. Within five (5) days, the department shall issue a new registry identification card with new random identification number.
- (12) On or before December 31, 2016, a compassion center cardholder shall notify the department of health of any disqualifying criminal convictions as defined in subdivision (c)(7). The department of health may choose to suspend and/or revoke his or her registry identification card after such notification.
- (13) On or after January 1, 2017, a compassion center cardholder shall notify the department of business regulation of any disqualifying criminal convictions as defined in subdivision (c)(7). The department of business regulation may choose to suspend and/or revoke his or her registry identification card after such notification.
- (14) If a compassion center cardholder violates any provision of this chapter or regulations promulgated hereunder as determined by the departments of health and business regulation, his or her registry identification card may be suspended and/or revoked.
 - (d) Expiration or termination of compassion center
 - (1) On or before December 31, 2016, a compassion center's registration shall expire two (2) years after its registration certificate is issued. On or after January 1, 2017, a compassion

center's registration shall expire one year after its registration certificate is issued. The compassion center may submit a renewal application beginning sixty (60) days prior to the expiration of its registration certificate;

- (2) The department of health or the department of business regulation shall grant a compassion center's renewal application within thirty (30) days of its submission if the following conditions are all satisfied:
 - (i) The compassion center submits the materials required under subdivisions (c)(4) and (c)(5), including a five thousand dollar (\$ 5,000) fee;

(ii) The compassion center's registration has never been suspended for violations of this chapter or regulations issued pursuant to this chapter; and

- (iii) The department of health and the department of business regulation find that the compassion center is adequately providing patients with access to medical marijuana at reasonable rates;
- (3) If the department of health or the department of business regulation determines that any of the conditions listed in paragraphs (d)(2)(i) -- (iii) have not been met, the department shall begin an open application process for the operation of a compassion center. In granting a new registration certificate, the department of health or the department of business regulation shall consider factors listed in subdivision (c)(3);
- (4) The department of health or the department of business regulation shall issue a compassion center one or more thirty-day (30) temporary registration certificates after that compassion center's registration would otherwise expire if the following conditions are all satisfied:

(i) The compassion center previously applied for a renewal, but the department had not yet come to a decision;

- (ii) The compassion center requested a temporary registration certificate; and
- (iii) The compassion center has not had its registration certificate revoked due to violations of this chapter or regulations issued pursuant to this chapter.
- (5) A compassion center's registry identification card shall be subject to revocation if the compassion center:
 - (i) Possesses an amount of marijuana exceeding the limits established by this chapter;
 - (ii) Is in violation of the laws of this state;
 - (iii) Is in violation of other departmental regulations; or

(iv) Employs or enters into a business relationship with a medical practitioner who provides written certification of a qualifying patient's medical condition.(e) Inspection. Compassion centers are subject to reasonable inspection by the department of health, division of facilities regulation and the department of business regulation. During an inspection, the departments may review the compassion center's confidential records, including its dispensing records, which shall track transactions according to qualifying patients' registry identification numbers to protect their confidentiality.

(f) Compassion center requirements

(1) A compassion center shall be operated on a not-for-profit basis for the mutual benefit of its patients. A compassion center need not be recognized as a tax-exempt organization by the Internal Revenue Service;

(2) A compassion center may not be located within one thousand feet (1000') of the property line of a preexisting public or private school;

(3) On or before December 31, 2016, a compassion center shall notify the department of health within ten (10) days of when a principal officer, board member, agent, volunteer, or employee ceases to work at the compassion center. On or after January 1, 2017, a compassion center shall notify the department of business regulation within ten (10) days of when a principal officer, board member, agent, volunteer, or employee ceases to work at the compassion center of ecases to work at the compassion center of business regulation within ten (10) days of when a principal officer, board member, agent, volunteer, or employee ceases to work at the compassion center. His or her card shall be deemed null and void and the person shall be liable for any penalties that may apply to any nonmedical possession or use of marijuana by the person;

(4)

- (i) On or before December 31, 2016, a compassion center shall notify the department of health in writing of the name, address, and date of birth of any new principal officer, board member, agent, volunteer or employee and shall submit a fee in an amount established by the department for a new registry identification card before that person begins his or her relationship with the compassion center;
- (ii) On or after January 1, 2017, a compassion center shall notify the department of business regulation, in writing, of the name, address, and date of birth of any new principal officer, board member, agent, volunteer, or employee and shall submit a fee in an amount established by the department for a new registry identification card before that person begins his or her relationship with the compassion center;
- (5) A compassion center shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall insure that each location has an operational security alarm system. Each compassion center shall request that the department of public safety division of state police visit the compassion center to inspect the

security of the facility and make any recommendations regarding the security of the facility and its personnel within ten (10) days prior to the initial opening of each compassion center. Said recommendations shall not be binding upon any compassion center, nor shall the lack of implementation of said recommendations delay or prevent the opening or operation of any center. If the department of public safety division of state police does not inspect the compassion center within the ten-day (10) period, there shall be no delay in the compassion center's opening.

- (6) The operating documents of a compassion center shall include procedures for the oversight of the compassion center and procedures to ensure accurate record keeping.
- (7) A compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patient's primary caregiver or authorized purchaser.

(8) All principal officers and board members of a compassion center must be residents of the state of Rhode Island.

- (9) Each time a new, registered, qualifying patient visits a compassion center, it shall provide the patient with a frequently asked questions sheet, designed by the department, that explains the limitations on the right to use medical marijuana under state law.
- (10) Effective July 1, 2016, each compassion center shall be subject to any regulations promulgated by the department of health that specify how usable marijuana must be tested for items included but not limited to cannabinoid profile and contaminants.
 - (11) Effective January 1, 2017, each compassion center shall be subject to any product labeling requirements promulgated by the department of business regulation.
- (12) Each compassion center shall develop, implement, and maintain on the premises employee, volunteer, and agent policies and procedures to address the following requirements:
 - (i) A job description or employment contract developed for all employees and agents, and a volunteer agreement for all volunteers, that includes duties, authority, responsibilities, qualifications, and supervision; and
 - (ii) Training in, and adherence to, state confidentiality laws.
- (13) Each compassion center shall maintain a personnel record for each employee, agent, and volunteer that includes an application and a record of any disciplinary action taken.
- (14) Each compassion center shall develop, implement, and maintain on the premises an on-site training curriculum, or enter into contractual relationships with outside resources capable of meeting employee training needs, that includes, but is not limited to, the following topics:

- (i) Professional conduct, ethics, and patient confidentiality; and
- (ii) Informational developments in the field of medical use of marijuana.
- (15) Each compassion center entity shall provide each employee, agent, and volunteer, at the time of his or her initial appointment, training in the following:
 - (i) The proper use of security measures and controls that have been adopted; and
 - (ii) Specific procedural instructions on how to respond to an emergency, including robbery or violent accident.
- (16) All compassion centers shall prepare training documentation for each employee and volunteer and have employees and volunteers sign a statement indicating the date, time, and place the employee and volunteer received said training and topics discussed, to include name and title of presenters. The compassion center shall maintain documentation of an employee's and a volunteer's training for a period of at least six (6) months after termination of an employee's employment or the volunteer's volunteering.
 - (g) Maximum amount of usable marijuana to be dispensed
 - (1) A compassion center or principal officer, board member, agent, volunteer, or employee of a compassion center may not dispense more than two and one half ounces (2.5 oz.) of usable marijuana, or its equivalent, to a qualifying patient directly or through a qualifying patient's primary caregiver or authorized purchaser during a fifteen-day (15) period;
 - (2) A compassion center or principal officer, board member, agent, volunteer, or employee of a compassion center may not dispense an amount of usable marijuana, or its equivalent, seedlings, or mature marijuana plants, to a qualifying patient, a qualifying patient's primary caregiver, or a qualifying patient's authorized purchaser that the compassion center, principal officer, board member, agent, volunteer, or employee knows would cause the recipient to possess more marijuana than is permitted under the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act.
 - (3) Compassion centers shall utilize a database administered by the departments of health and business regulation. The database shall contains all compassion centers' transactions according to qualifying patients', authorized purchasers', and primary caregivers', registry identification numbers to protect the confidentiality of patient personal and medical information. Compassion centers will not have access to any applications or supporting information submitted by qualifying patients, authorized purchasers or primary caregivers. Before dispensing marijuana to any patient or authorized purchaser, the compassion center must utilize the database to ensure that a qualifying patient is not dispensed more than two and one half ounces (2.5 oz.) of usable marijuana or its equivalent directly or through the qualifying patient's primary caregiver or authorized purchaser during a fifteen-day (15) period.

(h) Immunity

- (1) No registered compassion center shall be subject to prosecution; search, except by the departments pursuant to subsection (e); seizure; or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this section to assist registered qualifying patients.
- (2) No registered compassion center shall be subject to prosecution, seizure, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action, by a business, occupational, or professional licensing board or entity, for selling, giving, or distributing marijuana in whatever form, and within the limits established by, the department of health or the department of business regulation to another registered compassion center.
- (3) No principal officers, board members, agents, volunteers, or employees of a registered compassion center shall be subject to arrest, prosecution, search, seizure, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a compassion center to engage in acts permitted by this section.
- (4) No state employee shall be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty, disciplinary action, termination, or loss of employee or pension benefits, for any and all conduct that occurs within the scope of his or her employment regarding the administration, execution and/or enforcement of this act, and the provisions of SS 9-31-8 and 9-31-9 shall be applicable to this section.
 - (i) Prohibitions
 - (1) A compassion center must limit its inventory of seedlings, plants, and usable marijuana to reflect the projected needs of qualifying patients;
 - (2) A compassion center may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or to such patient's primary caregiver or authorized purchaser;
 - (3) A person found to have violated paragraph (2) of this subsection may not be an employee, agent, volunteer, principal officer, or board member of any compassion center;
 - (4) An employee, agent, volunteer, principal officer or board member of any compassion center found in violation of paragraph (2) shall have his or her registry identification revoked immediately; and

- (5) No person who has been convicted of a felony drug offense or has entered a plea of nolo contendere for a felony drug offense with a sentence or probation may be the principal officer, board member, agent, volunteer, or employee of a compassion center unless the department has determined that the person's conviction was for the medical use of marijuana or assisting with the medical use of marijuana in accordance with the terms and conditions of this chapter. A person who is employed by or is an agent, volunteer, principal officer, or board member of a compassion center in violation of this section is guilty of a civil violation punishable by a fine of up to one thousand dollars (\$ 1,000). A subsequent violation of this section is a misdemeanor.
 - (j) Legislative oversight committee
 - (1) The general assembly shall appoint a nine-member (9) oversight committee comprised of: one member of the house of representatives; one member of the senate; one physician to be selected from a list provided by the Rhode Island medical society; one nurse to be selected from a list provided by the Rhode Island state nurses association; two (2) registered qualifying patients; one registered primary caregiver; one patient advocate to be selected from a list provided by the Rhode Island patient advocacy coalition; and the superintendent of the department of public safety, or his/her designee.
 - (2) The oversight committee shall meet at least six (6) times per year for the purpose of evaluating and making recommendations to the general assembly regarding:
 - (i) Patients' access to medical marijuana;
 - (ii) Efficacy of compassion centers;
 - (iii) Physician participation in the Medical Marijuana Program;
 - (iv) The definition of qualifying medical condition; and
 - (v) Research studies regarding health effects of medical marijuana for patients.
 - (3) On or before January 1 of every even numbered year, the oversight committee shall report to the general assembly on its findings.

History

P.L. 2009, ch. 16, § 2; P.L. 2009, ch. 17, § 2; P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2012, ch. 242, § 1; P.L. 2014, ch. 145, art. 15, § 3; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2009, ch. 16, § 2, and P.L. 2009, ch. 17, § 2, enacted identical versions of this section.

This section was amended by three acts (P.L. 2012, ch. 88, § 1; P.L. 2012, ch. 118, § 1; P.L. 2012, ch. 242, § 1) passed by the 2012 General Assembly. Since the changes are not in conflict with each other, this section is set out as amended by all three acts.

P.L. 2012, ch. 88, § 1, and P.L. 2012, ch. 118, § 1 enacted identical amendments to this section.

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§ 21-28.6-13. Construction

This chapter shall be liberally construed so as to effectuate the purposes thereof.

History

P.L. 2012, ch. 88, § 2; P.L. 2012, ch. 118, § 2.

Annotations

Notes

COMPILER'S NOTES.

P.L. 2012, ch. 88, § 2, and P.L. 2012, ch. 118, § 2 enacted identical versions of this section.

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§ 21-28.6-14. Cooperative cultivations

- (a) Two (2) or more qualifying cardholders may cooperatively cultivate marijuana in residential or non-residential locations subject to the following restrictions:
 - (1) Effective January 1, 2017, cooperative cultivations shall apply to the department of business regulation for a license to operate;
 - (2) A registered patient or primary caregiver cardholder can only cultivate in one location, including participation in a cooperative cultivation;
 - (3) No single location may have more than one cooperative cultivation. For the purposes of this section, location means one structural building, not units within a structural building;
 - (4) The cooperative cultivation shall not be visible from the street or other public areas;
 - (5) A written acknowledgement of the limitations of the right to use and possess marijuana for medical purposes in Rhode Island that is signed by each cardholder and is displayed prominently in the premises cooperative cultivation;
 - (6) Cooperative cultivations are restricted to the following possession limits:
 - (i) A non-residential, cooperative cultivation may have no more than ten (10) ounces of usable marijuana, or its equivalent, and an amount of wet marijuana set in regulations promulgated by the departments of health and business regulation, forty-eight (48) mature marijuana plants, and forty-eight (48) seedlings;
 - (ii) A residential, cooperative cultivation may have no more than ten (10) ounces of useable marijuana, or its equivalent, and an amount of wet marijuana set in regulations promulgated by the departments of health and business regulation, twenty-four (24) mature marijuana plants, and twenty-four (24) seedlings;
 - (iii) A non-residential or residential, cooperative cultivation must have displayed prominently on the premises its license issued by the department of business regulation;

- (iv) Every marijuana plant possessed by a cooperative cultivation must be accompanied by a valid medical marijuana tag issued by the department of business regulation pursuant to § 21-28.6-15. Each cooperative cultivation must purchase at least one medical marijuana tag in order to remain a licensed cooperative cultivation; and
- (v) Cooperative cultivations are subject to reasonable inspection by the department of business regulation for the purposes of enforcing regulations promulgated pursuant to this chapter and all applicable Rhode Island general laws.
- (7) Cooperative cultivations must be inspected as follows:
 - (i) A non-residential, cooperative cultivation must have displayed prominently on the premises documentation from the municipality where the single location is located that the location and the cultivation has been inspected by the municipal building and/or zoning official and the municipal fire department and is in compliance with any applicable state or municipal housing and zoning codes; and
 - (ii) A residential, cooperative cultivation must have displayed prominently on the premises an affidavit by a licensed electrician that the cultivation has been inspected and is in compliance with any applicable state or municipal housing and zoning codes for the municipality where the cooperative cultivation is located.
- (8) Cooperative cultivations must report the location of the cooperative cultivation to the department of public safety.
- (9) The reports provided to the department of public safety in subsection (8) of this section shall be confidential, but locations may be confirmed for law enforcement purposes. The report of the location of the cooperative cultivation alone shall not constitute probable cause for a search of the cooperative cultivation.
- (10) The department of business regulation shall promulgate regulations governing the licensing and operation of cooperative cultivations, and may promulgate regulations that set a fee for a cooperative cultivation license.
- (b) Any violation of any provision of this chapter or regulations promulgated hereunder as determined by the department of business regulation may result in the revocation/suspension of the cooperative cultivation license.

History

P.L. 2014, ch. 515, § 1; P.L. 2016, ch. 142, art. 14, § 1.

Annotations

Notes

EFFECTIVE DATES.

P.L. 2014, ch. 515, § 3, provides that this section takes effect on September 1, 2014.

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§ 21-28.6-15. Medical marijuana plant tags

- (a) Effective January 1, 2017, the department of business regulation shall make medical marijuana tag sets available for purchase. Effective April 1, 2017, every marijuana plant, either mature or seedling, grown by a registered patient or primary caregiver, must be accompanied by a physical medical marijuana tag purchased through the department of business regulation and issued by the department of health to qualifying patients and primary caregivers or by the department of business regulation to licensed cultivators.
 - (1) The department of business regulation shall charge an annual fee for each medical marijuana tag set, which shall include one tag for a mature medical marijuana plant and one tag for a seedling. If the required fee has not been paid, those medical marijuana tags shall be considered expired and invalid. The fee established by the department of business regulation shall be in accordance with the following requirements:
 - (i) For patient cardholders authorized to grow medical marijuana by the department of health, the fee per tag set shall not exceed twenty-five dollars (\$ 25);
 - (ii) For primary caregivers, the fee per tag set shall not exceed twenty-five dollars (\$ 25);
 - (iii) For patients who qualify for reduced registration due to income or disability status, there shall be no fee per tag set;
 - (iv) For caregivers who provide care for a patient cardholder who qualifies for reduced-registration due to income or disability status, there shall be no fee per tag set for such qualifying patient; and
 - (v) For licensed cultivators, the fee per tag set shall be established in regulations promulgated by the department of business regulation.
 - (2) Effective January 1, 2017, the department of business regulation shall verify with the department of health that all medical marijuana tag purchases are made by qualifying patient cardholders or primary caregiver cardholders. The department of health shall provide this verification according to qualifying patients' and primary

caregivers' registry identification numbers and without providing access to any applications or supporting information submitted by qualifying patients to protect patient confidentiality;

- (3) Effective January 1, 2019, and thereafter, the department of business regulation shall verify with the department of health that all medical marijuana tag purchases are made by registered patient cardholders, who have notified the department of health of their election to grow medical marijuana, or primary caregiver cardholders. The department of health shall provide this verification according to qualifying patients' and primary caregivers' registry identification numbers and without providing access to any applications or supporting information submitted by qualifying patients to protect patient confidentiality;
- (4) The department of business regulation shall maintain information pertaining to medical marijuana tags and shall share that information with the department of health.
- (5) All primary caregivers shall purchase at least one medical marijuana tag for each patient under their care and all patients growing medical marijuana for themselves shall purchase at least one medical marijuana tag.
- (6) All licensed cultivators shall purchase at least one medical marijuana tag.
- (7) The departments of business regulation and health shall jointly promulgate regulations to establish a process by which medical marijuana tags may be returned to either department. The department of business regulation may choose to reimburse a portion or the entire amount of any fees paid for medical marijuana tags that are subsequently returned.

(b) Enforcement

- (1) If a patient cardholder, primary caregiver cardholder, or licensed cultivator violates any provision of this chapter or the regulations promulgated hereunder as determined by the departments of business regulation and health, his or her medical marijuana tags may be revoked. In addition, the department that issued the cardholder's registration or the license may revoke the cardholder's registration or license pursuant to $\int 21-28.6-9$.
- (2) The department of business regulation may revoke and not reissue, pursuant to regulations, medical marijuana tags to any cardholder or licensee who is convicted of; placed on probation; whose case is filed pursuant to $\int 12-10-12$ where the defendant pleads nolo contendere; or whose case is deferred pursuant to $\int 12-19-19$ where the defendant pleads nolo contendere for any felony offense under chapter 28 of title 21 ("Rhode Island Controlled Substances Act") or a similar offense from any other jurisdiction.
- (3) If a patient cardholder, primary caregiver cardholder, licensed cooperative cultivation, or licensed cultivator is found to have mature marijuana plants without valid medical marijuana tags, the

department or health or department of business regulation shall impose an administrative penalty on the patient cardholder, primary caregiver cardholder, licensed cooperative cultivation, or licensed cultivator for each untagged mature marijuana plant not in excess of the limits set forth in § 21-28.6-4, § 21-28.6-14 and § 21-28.6-16 of no more than the total fee that would be paid by a cardholder or licensee who purchased medical marijuana tags for such plants in compliance with this chapter.

(4) If a patient cardholder, primary caregiver cardholder, or licensed cooperative cultivation is found to have mature marijuana plants exceeding the limits set forth in § 21-28.6-4, § 21-28.6-14, and § 21-28.6-16 in addition to any penalties that may be imposed pursuant to § 21-28.6-9, the department of health or department of business regulation may impose an administrative penalty on that cardholder or license holder for each mature marijuana plant in excess of the applicable statutory limit of no less than the total fee that would be paid by a cardholder who purchased medical marijuana tags for such plants in compliance with this chapter.

History

P.L. 2016, ch. 142, art. 14, § 2.

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§ 21-28.6-16. Licensed cultivators

- (a) A licensed cultivator licensed under this section may acquire, possess, cultivate, deliver, or transfer marijuana to licensed compassion centers. A licensed cultivator shall not be a primary caregiver cardholder and shall not hold a cooperative cultivation license. Except as specifically provided to the contrary, all provisions of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, §§ 21-28.6-1 -- 21-28.6-15, apply to a licensed cultivator unless they conflict with a provision contained in § 21-28.6-16.
- (b) Licensing of cultivators -- Department of business regulation authority. The department of business regulation shall promulgate regulations governing the manner in which it shall consider applications for the licensing of cultivators, including regulations governing:
 - (1) The form and content of licensing and renewal applications;
 - (2) Minimum oversight requirements for licensed cultivators;
 - (3) Minimum record-keeping requirements for cultivators;
 - (4) Minimum security requirements for cultivators; and
 - (5) Procedures for suspending, revoking, or terminating the license of cultivators that violate the provisions of this section or the regulations promulgated pursuant to this subsection.
- (c) A licensed cultivator license issued by the department of business regulation shall expire one year after it was issued and the licensed cultivator may apply for renewal with the department in accordance with its regulations pertaining to licensed cultivators.
- (d) The department of business regulation shall promulgate regulations that govern how many marijuana plants, how many marijuana seedlings, how much wet marijuana, and how much usable marijuana a licensed cultivator may possess. Every marijuana plant possessed by a licensed cultivator must be accompanied by valid medical marijuana tag issued by the department of business regulation pursuant to § 21-28.6-15. Each

cultivator must purchase at least one medical marijuana tag in order to remain a licensed cultivator.

- (e) Cultivators shall only sell marijuana to compassion centers. All marijuana possessed by a cultivator in excess of the possession limit established pursuant to subsection (d) shall be under formal agreement to be purchased by a compassion center. If such excess marijuana is not under formal agreement to be purchased, the cultivator will have a period of time, specified in regulations promulgated by the department of business regulation, to sell or destroy that excess marijuana. The department may suspend and/or revoke the cultivator's license and the license of any officer, director, employee, or agent of such cultivator and/or impose an administrative penalty in accordance with such regulations promulgated by the department for any violation of this section or the regulations. In addition, any violation of this section or the regulations described in subsection (d) shall cause a licensed cultivator to lose the protections described in subsection (m) and may subject the licensed cultivator to arrest and prosecution under Chapter 28 of title 21 (the Rhode Island Controlled Substances Act).
- (f) Cultivators shall be subject to any regulations promulgated by the department of health or department of business regulation that specify how marijuana must be tested for items, including, but not limited to, potency, cannabinoid profile, and contaminants;
- (g) Cultivators shall be subject to any product labeling requirements promulgated by the department of business regulation and the department of health;
- (h) Notwithstanding any other provisions of the general laws, the manufacture of marijuana using a solvent extraction process that includes the use of a compressed, flammable gas as a solvent by a licensed cultivator shall not be subject to the protections of this chapter.
- (i) Cultivators shall only be licensed to grow marijuana at a single location, registered with the department of business regulation and the department of public safety. The department of business regulation may promulgate regulations governing where cultivators are allowed to grow. Cultivators must abide by all local ordinances, including zoning ordinances.
- (j) Inspection. Cultivators shall be subject to reasonable inspection by the department of business regulation or the department of health for the purposes of enforcing regulations promulgated pursuant to this chapter and all applicable Rhode Island general laws.
- (k) The cultivator applicant shall apply to the bureau of criminal identification of the department of attorney general, department of public safety division of state police, or local police department for a national criminal records check that shall include

fingerprints submitted to the Federal Bureau of Investigation. Upon the discovery of any disqualifying information as defined in subdivision (k)(2), and in accordance with the rules promulgated by the director of the department of business regulation, the bureau of criminal identification of the department of attorney general, department of public safety division of state police, or the local police department shall inform the applicant, in writing, of the nature of the disqualifying information; and, without disclosing the nature of the disqualifying information, shall notify the department of business regulation, in writing, that disqualifying information has been discovered.

- (1) In those situations in which no disqualifying information has been found, the bureau of criminal identification of the department of attorney general, department of public safety division of state police, or the local police department shall inform the applicant and the department of business regulation, in writing, of this fact.
- (2) Information produced by a national criminal records check pertaining to a conviction for a felony drug offense or a plea of nolo contendere for a felony drug offense and received a sentence of probation shall result in a letter to the applicant and the department of business regulation disqualifying the applicant.
- (3) The cultivator applicant shall be responsible for any expense associated with the national criminal records check.
- (1) Persons issued cultivator licenses shall be subject to the following:
 - (1) A licensed cultivator shall notify and request approval from the department of business regulation of any change in his or her name or address within ten (10) days of such change. A cultivator who fails to notify the department of business regulation of any of these changes is responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$ 150).
 - (2) When a licensed cultivator notifies the department of business regulation of any changes listed in this subsection, the department of business regulation shall issue the cultivator a new license after the department approves the changes and receives from the licensee payment of a fee specified in regulation.
 - (3) If a licensed cultivator loses his or her license, he or she shall notify the department of business regulation and submit a fee specified in regulation within ten (10) days of losing the license. The department of business regulation shall issue a new license with a new random identification number.
 - (4) A licensed cultivator shall notify the department of business regulation of any disqualifying criminal convictions as defined in subdivision (k)(2). The department of business regulation may choose to suspend and/or revoke his or her license after such notification.

(5) If a licensed cultivator violates any provision of this chapter or regulations promulgated hereunder as determined by the department of business regulation, his or her license may be suspended and/or revoked.

(m) Immunity

- (1) No licensed cultivator shall be subject to prosecution; search, except by the departments pursuant to subsection (j); seizure; or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this section to assist registered qualifying;
- (2) No licensed cultivator shall be subject to prosecution, seizure, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, for selling, giving, or distributing marijuana in whatever form and within the limits established by the department of business regulation to a registered compassion center;
- (3) No principal officers, board members, agents, volunteers, or employees of a licensed cultivator shall be subject to arrest, prosecution, search, seizure, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a licensed cultivator to engage in acts permitted by this section.
- (4) No state employee shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty, disciplinary action, termination, or loss of employee or pension benefits, for any and all conduct that occurs within the scope of his or her employment regarding the administration, execution, and/or enforcement of this act, and the provisions of $\int \int 9-31-8$ and 9-31-9 shall be applicable to this section.

History

P.L. 2016, ch. 142, art. 14, § 2.

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§ 21-28.6-17. Revenue

Effective July 1, 2016, all fees collected by the departments of health and business regulation from applicants, registered patients, primary caregivers, authorized purchasers, licensed cultivators, and cooperative cultivations shall be placed in restricted receipt accounts to support the state's medical marijuana program.

History

P.L. 2016, ch. 142, art. 14, § 2.

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Case Number: PC-2017-2989 Filed in Providence/Bristol County Superior Court Submitted: 7/17/2017 4:55:50 PM Envelope: 1121886 Reviewer: Lynn G.

Exhibit C

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RULES AND REGULATIONS RELATED TO THE MEDICAL MARIJUANA PROGRAM

[R21-28.6-MMP]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

March 2006 (E)

AS AMENDED:

July 2006 (E) August 2006 January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General Laws, as amended)

January 2008

March 2010

Case Number: PC-2017-2989 Filed in Providence/Bristol County Superior Court Submitted: 7/17/2017 4:55:50 PM Envelope: 1121886 Reviewer: Lynn G.

INTRODUCTION

These amended *Rules and Regulations Related to the Medical Marijuana Program* [*R21-28.6-MMP*] are promulgated pursuant to the authority conferred under Section 21-28.6-5 of the General Laws of Rhode Island of, as amended, and are established for the purpose of adopting standards for the implementation of a medical marijuana program, including establishment of compassion centers, in Rhode Island.

Pursuant to the provisions of Section 42-35-3(c) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the amended regulations: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on the available information, no known alternative approach, duplication or overlap was identified.

These amended regulations shall supersede all previous *Rules and Regulations Related to the Medical Marijuana Program* promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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Section 1.0 *Definitions*

Wherever used in these Regulations the following terms shall be construed as follows:

- 1.1 "*Act*" means RIGL Chapter 21-28.6 entitled "The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act."
- 1.2 "*Cardholder*" means a qualifying patient, a primary caregiver, or a principal officer, board member, employee, volunteer, or agent of a compassion center who has been issued and possesses a valid registry identification card.
- 1.3 "*Compassion center*" means a not-for-profit entity registered under §21-28.6-12 of the Act that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers who have designated it as one of their primary caregivers.

1.4 "*Debilitating medical condition*" means:

- (a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, Hepatitis C, or the treatment of these conditions;
- (b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain; severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or Crohn's disease; or agitation of Alzheimer's Disease; or
- (c) Any other medical condition or its treatment approved by the Department pursuant to §§2.5, 2.6 and 2.7 of these Regulations.
- 1.5 "*Department*" means the Rhode Island Department of Health or its successor agency.
- 1.6 "*Marijuana*" has the meaning given that term in RIGL §21-28-1.02(26) and is as follows: all parts of the plant (*Cannabis sativa, L.*), whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, but shall not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, (except the resin extracted from it), fiber, oil or cake, or the sterilized seed from the plant which is incapable of germination.
- 1.7 "*Mature marijuana plant*" means a marijuana plant which has flowers or buds that are readily observable by an unaided visual examination.
- 1.8 "*Medical use*" means the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

- 1.9 *"Paraphernalia*", as used in these Regulations, means any equipment, product, or material of any kind that is primarily intended or designed for use in manufacturing, compounding, converting, producing, processing, preparing, inhaling, or otherwise introducing into the human body marijuana, including but not limited to: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, or punctured metal bowls; water pipes, roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; bongs; ice pipes or chillers.
- 1.10 "*Parent or legal guardian*" means the custodial parent or legal guardian with responsibility for health care decisions for a person under eighteen (18) years of age.
- 1.11 "*Practitione*r" means a person who is licensed to practice medicine with authority to prescribe drugs pursuant to RIGL §5-37 or a physician licensed with authority to prescribe drugs in Massachusetts or Connecticut.
- 1.12 "*Primary caregiver*" means either a natural person who is at least twenty-one (21) years old or a compassion center. Unless the primary caregiver is a compassion center, a natural primary caregiver may assist no more than five (5) qualifying patients with their medical use of marijuana.
- 1.13 "*Qualifying patient*" means a person who has been diagnosed by a practitioner as having a debilitating medical condition and is a resident of Rhode Island.
- 1.14 *"Registry identification card*" means a document issued by the Department that identifies a person as a registered qualifying patient, a registered primary caregiver, or a registered principal officer, board member, employee, volunteer, or agent of a compassion center.
- 1.15 "*RIGL*" means the General Laws of Rhode Island, as amended.
- 1.16 "*Seedling*" means a marijuana plant with no observable flowers or buds.
- 1.17 "*These Regulations*" mean all parts of Rhode Island *Rules and Regulations Related to the Medical Marijuana Program* [*R21-28.6-MMP*].
- 1.18 "*Unusable marijuana*" means marijuana seeds, stalks, seedlings, and unusable roots.
- 1.19 "*Usable marijuana*" means the dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.
- 1.20 "*Written certification*" means the qualifying patient's medical records, and a statement signed by a practitioner, stating that in the practitioner's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition or conditions.

Section 2.0 *General Requirements*

2.1 <u>Administration of the Program</u>. The Division of Environmental and Health Services Regulation within the Department shall be responsible for the administrative functions required to implement the provisions of the Act and these Regulations as they apply to the implementation of the medical marijuana program in Rhode Island.

Written Certifications

- 2.2 Practitioners shall provide written certifications for their patients on such forms as shall be provided by the Department.
- 2.3 The written certification shall specify the qualifying patient's debilitating medical condition or conditions.
- 2.4 A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history.

Addition of Debilitating Medical Conditions

- 2.5 The Department shall accept a written petition from any person requesting that a particular disease or condition be included among the diseases and conditions that qualify as "debilitating medical conditions" contained in §1.4 of these Regulations.
- 2.6 The petitioner shall provide to the Department, as available:
 - (a) An explanation stating the reason(s) why the condition should be included;
 - (b) Any literature supporting the addition of the condition to the list;
 - (c) Letter(s) of support from physicians or other licensed health care professional knowledgeable about the condition and its treatment;
- 2.7 In considering such petitions, the Department shall include public notice of, and an opportunity to comment in a public hearing, upon such petitions.
 - 2.7.1 The Department shall, after hearing, approve or deny such petitions within one hundred eighty (180) days of submission.
 - 2.7.2 The approval or denial of such a petition shall be considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.
 - 2.7.3 The denial of a petition shall not disqualify qualifying patients with that condition, if they have a debilitating medical condition.
- 2.8 **<u>Registered Primary Caregiver and Registered Qualifying Patient Possession Limits</u>. The following possession limits are established for each registered primary caregiver and registered qualifying patient:**

- 2.8.1 A registered primary caregiver may possesses an amount of marijuana which does not exceed twelve (12) mature marijuana plants and two and one-half (2.5) ounces of usable marijuana for each qualifying patient to whom he or she is connected through the Department's registration process established pursuant to these Regulations.
- 2.8.2 Notwithstanding the provisions of §2.8.1 of these Regulations, no primary caregiver other than a compassion center shall possess an amount of marijuana in excess of twenty-four (24) mature marijuana plants and five (5) ounces of usable marijuana for qualifying patients to whom he or she is connected through the Department's registration process established pursuant to these Regulations.
- 2.8.3 A registered qualifying patient may possesses an amount of marijuana which does not exceed twelve (12) mature marijuana plants and two and one-half (2.5) ounces of usable marijuana.
- 2.8.4 Registered primary caregivers and registered qualifying patients shall be allowed to possess a reasonable amount of unusable marijuana, including up to twelve (12) seedlings, which shall not be counted toward the limits established in §§2.8.1 and 2.8.3 of these Regulations.
- 2.9 <u>Compassion Center Possession Limits</u>. A compassion center shall not possess an amount of marijuana that exceeds the total of the allowable amount of marijuana for the registered qualifying patients for whom the compassion center is a registered primary caregiver.
- 2.10 **Primary Caregiver Eligibility.** A person may not serve as a primary caregiver if he or she has a felony drug conviction, unless the Department waives this restriction in respect to a specific individual at the Department's discretion. Additionally, the Department shall allow the person to serve as a primary caregiver if the Department determines that the offense was for conduct that occurred prior to the enactment of the Act or that was prosecuted by an authority other than the state of Rhode Island, and for which the Act would otherwise have prevented a conviction.
- 2.11 <u>Compassion Center Principal Officer, Board Member, Agent, Volunteer or</u> <u>Employee Eligibility</u>. A person shall not serve as a principal officer, board member, agent, volunteer or employee of a compassion center if he or she has a felony drug conviction. Notwithstanding this requirement, the Department may allow a person to serve as a principal officer, board member, agent, volunteer or employee of a compassion center if the Department determines that the offense was for conduct that occurred prior to the enactment of the Act or that was prosecuted by an authority other than the state of Rhode Island, and for which the Act would otherwise have prevented a conviction.
- 2.12 <u>Compassion Center Authorized Activities</u>. A compassion center registered pursuant to §5.0 of these Regulations may acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana, or related supplies and educational materials, to registered qualifying patients and their registered primary caregivers who have designated it as one of their primary caregivers.

- 2.12.1 A compassion center shall be considered a primary caregiver.
- 2.12.2 Except as specifically provided to the contrary, all provisions in §21-28.6-1 through §21-28.6-11 of the Act shall apply to a compassion center unless they conflict with a provision contained in §21-28.6-12 of the Act.
- 2.13 <u>Emergency Notification</u>. A compassion center registered pursuant to §5.0 of these Regulations shall provide notification of emergency events to the Department and local law enforcement as outlined below.
 - 2.13.1 Immediately upon discovery of the event, provide telephone notification to the appropriate local law enforcement authorities regarding any of the following:
 - (a) An unplanned implementation of any portion of the compassion center's disaster plan;
 - (b) A failure/mechanical malfunction of the security alarm system that is expected to exceed an eight (8) hour period. [Ref: §5.1.7(e)(7) of these Regulations];
 - (c) An alarm activation or other event which requires response by public safety personnel; and
 - 2.13.2 Provide telephone notification to the Department within twenty-four (24) hours of discovery for any emergency event described in §2.13.1 of these Regulations;
 - 2.13.3 Submit a follow-up written report within five (5) business days for each telephone notification made pursuant to §2.13.2 of these Regulations. The written report shall include, as a minimum, a description of the event(s), identification of known or suspected cause(s) for the event(s), any corrective action(s) taken to prevent a recurrence, and the name and title of the individual preparing the report.
 - 2.13.4 <u>Notification</u>: Any notification required pursuant to §2.13.2 or §2.13.3 of these Regulations shall be made as follows:
 - (a) <u>Written Notification</u>:

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- (b) <u>Telephone Notification</u>:
 - (401) 222-2828 [Monday-Friday 8:30 a.m. 4:30 p.m.]
 - (401) 272-5952 [24 hour number]

Section 3.0 Application for Registry Identification Cards and Fees

- 3.1 **<u>Registry Identification Cards for Qualifying Patients and Primary Caregivers</u>. The Department shall issue registry photo identification cards to qualifying patients and primary caregivers who submit the following:**
 - 3.1.1 Written certification as defined in §1.20 of these Regulations;
 - 3.1.2 Non-returnable, non-refundable application or renewal fee of seventy-five dollars (\$75.00) for each qualifying patient or primary caregiver of the qualifying patient identified on the application;
 - (a) Provided, however, for a qualifying patient or primary caregiver who submits satisfactory evidence to the Department of being a recipient of Medicaid, Supplemental Security Income (SSI), or Social Security Disability Insurance (SSDI), a non-returnable, non-refundable application or renewal fee of ten dollars (\$10.00) shall be submitted.
 - 3.1.3 Name, address, and date of birth of the qualifying patient. If the qualifying patient is homeless, no address is required.
 - 3.1.4 Name, address, and telephone number of the qualifying patient's practitioner; and
 - 3.1.5 Name, address, and date of birth of each primary caregiver, up to a maximum of two (2), of the qualifying patient, if any.
 - 3.1.6 Each applicant for qualifying patient registry identification card shall also indicate if he or she would like the Department to notify him or her of any clinical studies about marijuana's risk or efficacy.
- 3.2 **<u>Registry Identification Cards for Minors</u>**. The Department shall not issue a registry identification card to a qualifying patient under the age of eighteen (18) unless:
 - 3.2.1 The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian or person having legal custody of the qualifying patient; and
 - 3.2.2 A parent, guardian or person having legal custody consents in writing to:
 - (a) Allow the qualifying patient's medical use of marijuana;
 - (b) Serve as one of the qualifying patient's primary caregivers; and
 - (c) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

Section 4.0 Issuance and Renewal of Registry Identification Cards

- 4.1 The Department shall verify the information contained in an application or renewal submitted pursuant to the Act, and shall approve or deny an application or renewal within fifteen (15) days of receiving it.
- 4.2 The Department shall issue registry identification cards within five (5) days of approving an application or renewal, which shall expire two (2) years after the date of issuance.
 - 4.2.1 If the Department fails to issue a valid registry identification card in response to a valid application submitted pursuant to the Act or these Regulations within thirty-five (35) days of its submission, the registry identification card shall be deemed granted and a copy of the registry identification application shall be deemed valid registry identification card.
 - 4.2.2 The department shall issue a registry identification card to each primary caregiver, if any, who is named in a qualifying patient's approved application, up to a maximum of two (2) primary caregivers per qualifying patient.
- 4.3 The Department may deny an application or renewal only if the applicant did not provide the information required pursuant to the Act, or if the Department determines that the information provided was falsified.
- 4.4 Rejection of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.
- 4.5 A registry identification card shall not be transferable.
- 4.6 Registry identification cards shall contain:
 - 4.6.1 The date of issuance and expiration date of the registry identification card;
 - 4.6.2 A random registry identification number; and
 - 4.6.3 A photograph.

Requirements Related to Registry Identification Cards

- 4.7 Persons issued registry identification cards shall be subject to the following:
 - 4.7.1 A qualifying patient who has been issued a registry identification card shall notify the Department of any change in the qualifying patient's name, address, or primary caregiver; or if the qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of such change.
 - 4.7.2 If a registered qualifying patient has ceased to suffer from a debilitating medical condition, the card shall be deemed null and void and the person shall be liable for any other penalties that may apply to the person's non-medical use of marijuana.

- 4.7.3 A registered primary caregiver, principal officer, board member, employee, volunteer or agent of a compassion center shall notify the Department of any change in his or her name or address within ten (10) days of such change.
- 4.7.4 When a qualifying patient or primary caregiver notifies the Department of any changes listed in §4.7.1 of these Regulations, the Department shall issue the registered qualifying patient and each primary caregiver a new registry identification card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) non-returnable, non-refundable fee for each new registration card to be issued.
- 4.7.5 When a principal officer, board member, employee, volunteer or agent of a compassion center notifies the Department of any changes listed in §4.7.3 of these Regulations, the Department shall issue the cardholder a new registry identification card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee for each new registration card to be issued.
- 4.8 When a qualifying patient who possesses a registry identification card changes his or her primary caregiver, the Department shall notify the primary caregiver within ten (10) days. The primary caregiver's protections as provided in §6.0 of these Regulations as to that patient shall expire ten (10) days after notification by the Department.
- 4.9 If a cardholder loses his or her registry identification card, he or she shall notify the Department and submit a ten dollar (\$10.00) non-returnable, non-refundable fee within ten (10) days of losing the card. Within five (5) days of receiving this notification, the Department shall issue a new registry identification card with new random identification number.
- 4.10 Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.

Section 5.0 *Registration and Operation of Compassion Centers*

5.1 **General Requirements for Operation of a Compassion Center.**

- 5.1.1 A compassion center shall be operated on a not-for-profit basis for the mutual benefit of its patients. A compassion center need not be recognized as a tax-exempt organization by the Internal Revenue Services.
- 5.1.2 A compassion center shall not acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patient's other primary caregiver.
- 5.1.3 A compassion center shall not be located within five hundred (500) feet of the property line of a preexisting public or private school.

- 5.1.4 All principal officers and board members of a compassion center shall be residents of the state of Rhode Island.
- 5.1.5 Each compassion center shall notify the Department in writing of the name, address, and date of birth¹ of any new principal officer, board member, agent, volunteer or employee and shall submit the fee established in §5.5 of these Regulations for a new registry identification card before a new agent, volunteer or employee begins working at the compassion center.
- 5.1.6 Each compassion center shall notify the Department in writing within ten (10) days of when a principal officer, board member, agent, volunteer or employee ceases to work at the compassion center. His or her registry identification card shall be deemed null and void and the individual shall be liable for any other penalties that may apply to the individual's nonmedical use of marijuana.

5.1.7 Security Requirements:

- (a) Each compassion center shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.
 - (1) Access from outside the premises shall be kept to a minimum and be well-controlled;
 - (2) The outside perimeter of the premises shall be well-lighted; and
 - (3) Entry into area(s) where marijuana is held shall be limited to authorized personnel.
- (b) Each compassion center shall have a fully operational security alarm system at each authorized physical address that will provide suitable protection against theft and diversion. For the purpose of these Regulations, a fully operational security alarm system shall include, as a minimum:
 - (1) Immediate automatic or electronic notification to alert local or municipal law enforcement agencies to an unauthorized breach of security at the compassion center or at any other authorized physical address; and
 - (2) Immediate automatic or electronic notification to local or municipal public safety personnel of a loss-of-electrical support backup system.
- (c) When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.
- (d) Each compassion center shall ensure that the storage of usable marijuana is in a locked area with adequate security. For purpose of these Regulations, "adequate security", as a minimum, should be assessed, established and maintained based on:

¹ A compassion center is considered to be a primary caregiver. Therefore, any principal officer, board member, agent, volunteer or employee shall be at least twenty-one (21) years old.

- (1) Quantity of usable marijuana that will be kept on hand at each authorized location;
- (2) The compassion center's inventory system for tracking and dispensing usable marijuana;
- (3) The number of principal officers, board members, agents, volunteers or employees who have or could have access to the usable marijuana;
- (4) The geographic location of the compassion center (i.e., high or low crime area);
- (5) Scope and sustainability of the alarm system; and
- (6) Root cause analysis of any breach of security and/or inventory discrepancy for usable marijuana at that location.
- (e) Each compassion center, as a minimum, shall:
 - (1) Conduct an initial comprehensive inventory of all medical marijuana, including usable marijuana available for dispensing, mature marijuana plants and unusable marijuana, at each authorized location on the date the compassion center first dispenses medical marijuana.
 - (2) Conduct the comprehensive inventory required by §5.1.7(e)(1) of these Regulations at intervals not to exceed twenty-four (24) months from the date of the previous comprehensive inventory;
 - (3) Conduct a monthly inventory review of stored, usable marijuana;
 - (4) Within twenty-four (24) hours of discovery of the event, notify the Department and appropriate local law enforcement authorities by telephone of discrepancies identified during inventories conducted pursuant to §§5.1.7(e)(1), (e)(2) or (e)(3) of these Regulations.
 - (5) Establish a protocol for the testing and maintenance of the security alarm system;
 - (6) Conduct a maintenance inspection/test of the alarm system for each authorized location at intervals not to exceed thirty (30) days from the previous inspection/test and promptly make all necessary repairs to ensure the proper operation of the alarm system;
 - (7) In the event of a failure of the security alarm system, due to loss of electrical support or mechanical malfunction, that is expected to exceed an eight (8) hour period:
 - (i) Within twenty-four (24) hours of discovery of the event, notify the Department by telephone; and
 - Provide alternative security measures approved by the Department or close the authorized physical address(es) impacted by the failure/ malfunction until the security alarm system has been restored to full operation;

- (8) Maintain documentation in an auditable form² for a period of at least twenty-four (24) months after the event for:
 - (i) All inventories conducted pursuant to §§5.1.7(e)(1), (e)(2) or (e)(3) of these Regulations. The record shall include, as a minimum, the date of the inventory, a summary of the inventory findings and the name, signature and title of the individual who conducted the inventory;
 - (ii) All maintenance inspections/tests conducted pursuant to §5.1.7(e)(6) of these Regulations, and any servicing, modification or upgrade performed on the security alarm system. The record shall include, as a minimum, the date of the action, a summary of the action(s) performed and the name, signature and title of the individual who performed the action(s);
 - (iii) Any alarm activation or other event which requires response by public safety personnel; and
 - (iv) Any unauthorized breach(es) of security.
- 5.1.8 **Operations Manual**. Each compassion center shall develop, implement and maintain on the premises an operations manual which addresses, as a minimum, the following requirements:
 - (a) Procedures for the oversight of the compassion center;
 - (b) Procedures for safely dispensing medical marijuana to registered qualifying patients or their other registered primary caregiver:
 - (c) Procedures to ensure accurate record keeping, including protocols to ensure that quantities purchased do not suggest re-distribution;
 - (d) Employee security policies;
 - (e) Safety and security procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;
 - (f) Personal safety and crime prevention techniques;
 - (g) A job description or employment contract developed for all employees and a volunteer agreement for all volunteers, which includes duties, responsibilities, authority, qualification and supervision;
 - (h) The compassion center's alcohol and drug free work place policy; and
 - (i) A description of the compassion center's outreach activities to registered qualifying patients or their other registered primary caregiver which shall, as a minimum, include:

² Any required record may be microfilmed or otherwise archived as long as a complete copy of said record can be retrieved for a period of at least twenty-four (24) months after the event which caused the record to be generated.

- (1) Providing each new registered qualifying patient who visits the compassion center with frequently asked questions, designed by the Department, which explains the limitations on the right to use medical marijuana under state law;
- (2) Ingestion options of useable marijuana provided by the compassion center;
- (3) Safe smoking techniques that shall be provided to registered qualifying patients; and
- (4) Potential side effects and how this information shall be communicated.
- (j) A description of the packaging of the useable marijuana that the compassion center shall be utilizing which shall, as a minimum, include:
 - (1) A label containing the name of the strain, batch and quantity; and
 - (2) A statement that the product is for medical use and not for resale.
- 5.1.9 <u>Required Training</u>. Each compassion center shall develop, implement and maintain on the premises an on-site training curriculum, or enter into contractual relationships with outside resources capable of meeting employee, agent and volunteer training needs. Each employee, agent or volunteer, at the time of his or her initial appointment, shall receive, as a minimum, training in the following:
 - (a) Professional conduct, ethics, and state and federal laws regarding patient confidentiality;
 - (b) Informational developments in the field of medical use of marijuana;
 - (c) The proper use of security measures and controls that have been adopted; and
 - (d) Specific procedural instructions for responding to an emergency, including robbery or violent accident.
- 5.1.10 **<u>Personnel Records</u>**. Each compassion center shall maintain a personnel record for each employee, agent or volunteer that includes, as a minimum, the following:
 - (a) An application for employment or to volunteer;
 - (b) A record of any disciplinary action taken;
 - (c) Documentation of all required training;
 - (1) Documentation shall include a signed statement from the individual indicating the date, time and place he or she received said training and topics discussed, including the name and title of presenters; and
 - (2) Documentation shall be maintained for a period of at least six (6) months after termination the individual's affiliation with the compassion center.
- 5.2 <u>Application for Operation of Compassion Center</u>. Applications shall only be accepted during an open application period announced by the Department. Each application for a compassion center shall be on forms provided by the Department and shall include:
 - 5.2.1 A non-refundable application fee, made payable to the General Treasurer, State of Rhode Island, in the amount of two hundred fifty dollars (\$250).

- 5.2.2 The proposed legal name, articles of incorporation and bylaws of the compassion center.
- 5.2.3 The proposed physical address(es) of the compassion center, if a precise address has been determined. This shall also include any additional address(es) to be used for the secure cultivation of medical marijuana.
 - (a) Provide evidence of compliance with the local zoning laws for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana;
 - (b) Provide evidence that all of the physical addresses identified in §5.2.3(a) of these Regulations are not located within five hundred feet (500') of the property line of a preexisting public or private school; or
 - (c) If a precise address has not been determined, identify the general location(s) where it would be sited, and when.
- 5.2.4 A description of the enclosed, locked facility that would be used in the cultivation of marijuana, including steps to ensure that the marijuana production shall not be visible from the street or other public areas.
- 5.2.5 A description of how the compassion center will operate on a not-for-profit basis:
 - (a) Documentation of recognition as a tax-exempt organization by the US Internal Revenue Service; or
 - (b) Other written materials which will allow the Department to determine the compassion center's ability to comply with the review criteria contained in §21-28.6-12(c)(3)(iii) of the Act.
- 5.2.6 The name, address, and date of birth of each principal officer and board member of the compassion center.
- 5.2.7 A description of proposed security and safety measures which demonstrate compliance with §5.1.7 of these Regulations,
- 5.2.8 A draft operations manual which demonstrates compliance with §5.1.8 of these Regulations.
- 5.2.9 A list of all persons or business entities having direct or indirect authority over the management or policies of the compassion center.
- 5.2.10 A list of all persons or business entities having five percent (5%) or more ownership in the compassion center, whether direct or indirect and whether the interest is in profits, land or building, including owners of any business entity which owns all or part of the land or building. and
- 5.2.11 The identities of all creditors holding a security interest in the premises, if any.

- 5.2.12 <u>Complete Application Required</u>. Only applications which the Department has determined to be complete (i.e., adequately address all requirements in §§5.2.1-5.2.11 of these Regulations) shall be eligible for review pursuant to §5.3 of these Regulations. An applicant who submits an incomplete applications shall receive written notification from the Department regarding the specific deficiencies and shall be allowed to resubmit additional material to address these deficiencies.
- 5.3 <u>Compassion Center Application Review Criteria</u>. The Department shall utilize the criteria specified in §21-28.6-12(c)(3) of the Act to review applications for a registration certificate to operate a compassion center.
- 5.4 **Issuance of Registration Certificate Authorizing Operation of a Compassion Center.** When an applicant to operate a compassion center is notified that its application has been approved by the Department, it shall submit the following additional items to the Department before the registration certificate authorizing operation of a compassion center will be issued:
 - 5.4.1 A certification fee, made payable to the General Treasurer, State of Rhode Island, in the amount of five thousand dollars (\$5,000);
 - 5.4.2 The legal name and articles of incorporation of the compassion center.
 - 5.4.3 The physical address of the compassion center. This shall include any additional address(es) to be used for the secure cultivation of marijuana.
 - (a) Provide evidence of compliance with the local zoning laws for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana.
 - (b) Provide evidence that all of the physical addresses identified in §5.4.3(a) of these Regulations are not located within five hundred feet (500') of the property line of a preexisting public or private school.
 - (c) It shall not be necessary to resubmit any information provided pursuant to §5.2.3(a) and/or §5.2.3(b) of these Regulations unless there has been a change in that information.
 - 5.4.4 The name, address and date of birth of each principal officer and board member of the compassion center.
 - 5.4.5 The name, address and date of birth of any person who will be an agent of or employed by the compassion center at its inception.
 - 5.4.6 Any updates to previously submitted information regarding compliance with §§5.1.7 and 5,1.8 of these Regulations.
 - 5.4.7 A current Certificate of Occupancy (or equivalent document) to demonstrate compliance with the provisions of RIGL §23-28.1 [Fire Safety Code] for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana.

- 5.5 <u>Registry Identification Cards for Principal Officers, Board Members, Agents,</u> <u>Volunteers or Employees of a Compassion Center</u>. The Department shall issue registry photo identification cards to each principal officer, board member, agent or employee of a compassion center who is identified by the compassion center pursuant to §5.4 of these Regulations, subject to the requirements in §5.5.1, §5.5.2 and §5.5.3.
 - 5.5.1 A non-returnable, non-refundable application or renewal fee of seventy-five dollars (\$75.00) shall be submitted for each principal officer, board member, agent or employee of the compassion center.
 - 5.5.2 The compassion center shall also submit the name, address and date of birth of any additional principal officer, board member, agent employee or volunteer of the compassion center and a non-returnable, non-refundable application or renewal fee of seventy-five dollars (\$75.00) for each individual.
 - 5.5.3 Pursuant to §21-28.6-12(c)(7) of the Act, each compassion center principal officer, board member, agent, volunteer or employee shall submit a full Bureau of Criminal Investigation (BCI) check from the Rhode Island Attorney General's Office to demonstrate compliance with the eligibility requirements in §2.11 of these Regulations.
 - (a) All applicable fees associated with the full Bureau of Criminal Investigation (BCI) check from the Rhode Island Attorney General's Office shall be paid by the compassion center or the individual;
 - (b) The Department shall notify the compassion center in writing of the purpose for denying the registry identification card.
 - 5.5.4 The Department shall issue each principal officer, board member, agent, volunteer or employee of a compassion center a registry identification card within ten (10) days of receipt of the information required by §5.5.1 or §5.5.2. The registry identification card shall contain:
 - (a) The name, address and date of birth of the person;
 - (b) The legal name of the compassion center that the individual is affiliated with;
 - (c) The category of the person's affiliation (principal officer, board member, agent, volunteer or employee);
 - (d) The date of issuance and expiration date of the registry identification card;
 - (e) A random registry identification number; and
 - (f) A photograph.
 - 5.5.5 <u>Expiration Date</u>. The registry identification card of a principal officer, board member, agent, volunteer or employee shall expire one (1) year after its issuance, or upon the expiration of the compassion center's registration certificate, whichever occurs first.

5.6 <u>Expiration, Termination or Renewal of a Registration Certificate Authorizing</u> <u>Operation of a Compassion Center</u>.

- 5.6.1 A compassion center's registration shall expire two (2) years after its registration certificate is issued. The compassion center may submit a renewal application beginning sixty (60) days prior to the expiration of its registration certificate;
- 5.6.2 The Department shall grant a compassion center's renewal application within thirty (30) days of its submission if the following conditions are all satisfied:
 - (a) The compassion center submits the materials required under §5.4 of these Regulations, including a five thousand dollar (\$5,000) fee;
 - (b) The Department has not ever suspended the compassion center's registration for violations of the Act or these Regulations;
 - (c) The Legislative Oversight Committee's report, issued pursuant to §21-28.6-12(j) of the Act, indicates that the compassion center is adequately providing patients with access to medical marijuana at reasonable rates; and
 - (d) The Legislative Oversight Committee's report, issued pursuant to §21-28.6-12(j) of the Act, does not raise serious concerns about the continued operation of the compassion center applying for renewal.
- 5.6.3 If the Department determines that any of the conditions listed in §§5.6.2(b), 5.6.2(c) or 5.6.2(d) of these Regulations exist, the Department shall begin an open application process for the operation of a compassion center. In granting a new registration certificate, the Department shall consider the review criteria listed in §21-28-12(c)(3) of the Act.
- 5.6.4 The Department shall issue a compassion center one (1) or more thirty (30) day temporary registration certificates after that compassion center's registration would otherwise expire if the following conditions are all satisfied:
 - (a) The compassion center previously applied for a renewal, but the Department had not yet come to a decision;
 - (b) The compassion center requested a temporary registration certificate; and
 - (c) The compassion center has not had its registration certificate revoked due to violations of the Act or these Regulations.

5.7. <u>Non-transferable Registration Certificate Authorizing Operation of a Compassion</u> <u>Center</u>.

- 5.7.1 A registration certificate authorizing operation of a compassion center shall not be transferred by assignment or otherwise to other persons or locations. Unless the compassion center applies for and receives an amended registration certificate authorizing operation of a compassion center, the registration certificate shall be void and returned to the Department when one (1) or more of the following situations occurs:
 - (a) A change in ownership of the compassion center;
 - (b) A change in one (1) or more authorized physical locations; or

- (c) The compassion center discontinues its operation.
- 5.7.2 A compassion center shall provide the Department with a written notice of any change described in 5.7.1 of these Regulations at least sixty (60) days prior to the proposed effective date of the change. The Department may waive all or part of the required advance notice to address emergent or emergency situations.
- 5.7.3 Transactions which usually do not constitute a change of ownership include the following:
 - (a) Changes in the membership of a board of directors or board of trustees; or
 - (b) Two (2) or more legal entities merge and the entity to whom the registration certificate authorizing operation of a compassion center was issued survives.
- 5.7.4 Management agreements are generally not considered a change in ownership if the entity to whom the registration certificate authorizing operation of a compassion center was issued continues to retain ultimate authority for the operation of the compassion center. However, if the ultimate authority is surrendered and transferred from the entity to whom the registration certificate authorizing operation of a compassion center was issued to a new manager, then a change of ownership has occurred.

5.8 **Maximum Amount of Usable Marijuana to be Dispensed.**

- 5.8.1 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center shall not dispense, deliver or otherwise transfer marijuana to a person other than a qualifying patient who has designated the compassion center as a primary caregiver or to such patient's other primary caregiver.
- 5.8.2 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center shall not dispense more than two and one half ounces (2.5 oz) of usable marijuana to a qualifying patient directly or through a qualifying patient's other primary caregiver during a fifteen (15) day period.
- 5.8.3 A compassion center or principal officer, board member, agent, volunteer or employee of a compassion center shall not dispense an amount of usable marijuana or marijuana plants to a qualifying patient or a qualifying patient's other primary caregiver that the compassion center, principal officer, board member, agent, volunteer or employee knows would cause the recipient to possess more marijuana than is permitted under the Act or these Regulations.
- 5.8.4 A person found to have violated §5.8.1 of these Regulations is not eligible to be an employee, agent, principal officer or board member of any compassion center, and such person's registry identification card shall be immediately revoked.

5.9 **Inspection**. Compassion centers are subject to reasonable inspection by the Department's Office of Facilities Regulation. The Department shall give reasonable notice of an inspection under these Regulations. During an inspection, the Department may review the compassion center's confidential records, including its dispensing records, which may track transactions according to qualifying patients' registry identification numbers to protect their confidentiality, and its security protocols.

Section 6.0 *Protections for the Medical Use of Marijuana*

- 6.1 A qualifying patient who has in his or her possession a registry identification card, issued pursuant to the Act and these Regulations, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana; provided, that the qualifying patient possesses an amount of marijuana that does not exceed the applicable limits established in §2.8 of these Regulations. Said plants shall be stored in an indoor facility.
- 6.2 No school, employer or landlord may refuse to enroll, employ or lease to or otherwise penalize a person solely for his or her status as a cardholder.
- 6.3 A primary caregiver, who has in his or her possession, a registry identification card issued pursuant to the Act and these Regulations, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marijuana; provided, that the primary caregiver possesses an amount of marijuana which does not exceed the applicable limits established in §2.8 of these Regulations for each qualifying patient to whom he or she is connected through the department's registration process established pursuant to these Regulations.
- 6.4 There shall exist a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana if the qualifying patient or primary caregiver:
 - 6.4.1 Is in possession of a registry identification card issued pursuant to the Act and these Regulations; and
 - 6.4.2 Is in possession of an amount of marijuana that does not exceed the amount permitted under §2.8 of these Regulations. Such presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the medical condition.
- 6.5 A primary caregiver may receive reimbursement for costs associated with assisting a registered qualifying patient's medical use of marijuana. Compensation shall not constitute sale of controlled substances.

- 6.6 A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the Rhode Island Board of Medical Licensure and Discipline or by any another business or occupational or professional licensing board or bureau solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the medical marijuana would likely outweigh the health risks for a patient.
- 6.7 Any interest in or right to property that is possessed, owned, or used in connection with the medical use of marijuana, or acts incidental to such use, shall not be forfeited.
- 6.8 No person shall be subject to arrest or prosecution for constructive possession, conspiracy, aiding and abetting, being an accessory, or any other offense for simply being in the presence or vicinity of the medical use of marijuana as permitted under the Act and these Regulations, or for assisting a registered qualifying patient with using or administering marijuana.
- 6.9 A practitioner, nurse, or pharmacist shall not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau solely for discussing the benefits or health risks of medical marijuana or its interaction with other substances with a patient.
- 6.10 A registry identification card, or its equivalent, issued under the laws of another state, U.S. territory, or the District of Columbia to permit the medical use of marijuana by a patient with a debilitating medical condition, or to permit a person to assist with the medical use of marijuana by a patient with a debilitating medical condition, shall have the same force and effect as a registry identification card issued by the Department pursuant to the Act and these Regulations.
- 6.11 A registered qualifying patient or registered primary caregiver may give marijuana to another registered qualifying patient or registered primary caregiver to whom they are not connected through the Department's registration process established pursuant to these Regulations, provided that no consideration is paid for the marijuana, and that the recipient does not exceed the applicable limits specified in §2.8 of these Regulations.
- 6.12 For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance.

- 6.13 A registered compassion center shall not be subject to prosecution; search, except by the Department pursuant to §21-28.6-12(e) of the Act and §5.9 of these Regulations; seizure or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with the Act and these Regulations to assist registered qualifying patients, to whom it is connected through the registration process established pursuant to these Regulations, with the medical use of marijuana.
- 6.14 A principal officer, board member, agent, volunteer or employee of a registered compassion center shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a compassion center to engage in activities permitted by the Act and these Regulations.

Section 7.0 *Confidentiality Provisions*

- 7.1 Applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and practitioners, are confidential and protected under the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended.
- 7.2 The Department shall maintain a confidential list of the persons to whom the Department has issued registry identification cards.
 - 7.2.1 Individual names and other identifying information on the list:
 - (a) Shall be confidential and not be considered a public record pursuant to RIGL §38-2-2(4); and
 - (b) Shall not subject to disclosure, except to authorized employees of the Department as necessary to perform official duties of the Department.
- 7.3 The Department shall verify to law enforcement personnel whether a registry identification card is valid solely by confirming the random registry identification number.
- 7.4 All records maintained by a compassion center which pertain to one or more registered qualifying patients or other registered primary caregivers shall be considered:
 - 7.4.1 Confidential health care information under applicable Rhode Island law; and
 - 7.4.2 Protected health care information for purposes of the Federal Health Insurance Portability and Accountability Act of 1996, as amended.
- 7.5 Pursuant to §21-28.6-6(j) of the Act, the Department may notify law enforcement personnel about falsified or fraudulent information submitted to the Department.

Section 8.0 Scope of the Act

- 8.1 The Act and these Regulations shall not permit:
 - 8.1.1 Any person to undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice;
 - 8.1.2 The smoking of marijuana:
 - (a) In a school bus or other form of public transportation;
 - (b) On any school grounds;
 - (c) In any correctional facility;
 - (d) In any public place;
 - (e) In any licensed drug treatment facility in this state; or
 - (f) Where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.
 - 8.1.3 Any person to operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence solely for having marijuana metabolites in his or her system.
- 8.2 Nothing in the Act or these Regulations shall be construed to require:
 - 8.2.1 A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
 - 8.2.2 An employer to accommodate the medical use of marijuana in any workplace.

Section 9.0 *Penalties for Violations*

- 9.1 Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be punishable by a fine of five hundred dollars (\$500) which shall be in addition to any other penalties that may apply for making a false statement for the non-medical use of marijuana.
- 9.2 If a cardholder willfully violates any provision of the Act or these Regulations, as determined by the Department, his or her registry identification card may be revoked.
- 9.3 A registered qualifying patient who fails to notify the Department of any changes required pursuant to §4.7.2 of these Regulations shall be responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$150)
- 9.4 A primary caregiver, principal officer, board member, employee, volunteer or agent of a compassion center who fails to notify the Department of any changes required pursuant to \$4.7.3 of these Regulations shall be responsible for a civil infraction, punishable by a fine of no more than one hundred fifty dollars (\$150).

Section 10.0 *Practices and Procedures*

10.1 All hearings and reviews required under the provisions of RIGL Chapter 21-28.6 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health [R42-35-PP].*

Section 11.0 *Severability*

11.1 Any section of the Act being held invalid as to any person or circumstances shall not affect the application of any other section of the Act that can be given full effect without the invalid section or application.

MedicalMarijuana_FinalRegs_March2010.doc Tuesday, 23 February 2010

Exhibit D

230-RICR-800-05-1

TITLE 230 – DEPARTMENT OF BUSINESS REGULATION

CHAPTER 800 – MARIJUANA

SUBCHAPTER 05 - MEDICAL MARIJUANA

PART 1 - Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Business Regulation

1.1 General Provisions

- A. Definitions and References
 - 1. "Act" shall refer to Chapter 21-28.6 of the Rhode Island General Laws entitled "The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act," as amended, including amendment by the 2016 Public Laws, Chapter 142 (Budget Article 14).
 - 2. "DBR" shall refer to the Rhode Island Department of Business Regulation or its successor agency. R.I. Gen. Laws § 21-28.6-3(6).
 - 3. "DOH" shall refer to the Rhode Island Department of Health or its successor agency. R.I. Gen. Laws § 21-28.6-3(7).
 - 4. "RISP" shall refer to the Rhode Island Department of Public Safety, Division of State Police, or its successor agency. R.I. Gen. Laws § 21-28.6-3(8).
 - 5. "DBR Regulations" shall refer to these Regulations, the Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Business Regulation, as the same may be amended from time to time.
 - 6. "DOH Regulations" shall refer to the Rules and Regulations Related to the Medical Marijuana Program Administered by the Department of Health, as the same may be amended from time to time, and the DOH Testing Regulations, when adopted.
 - 7. "DOH Testing Regulations" shall refer to the testing requirements, standards, and procedures for conduct of testing through "approved third party testing providers" to be promulgated by DOH, as the same may be amended from time to time. The DOH Testing Regulations will apply to licensed cultivators, registered compassion centers, and approved third party testing providers performing independent testing on the medical

marijuana and marijuana products of the compassion centers and licensed cultivators for tetrahydrocannabinol (THC) and cannabidiol (CBD) concentrations and traces of contaminants such as pesticides and for any other results mandated by DOH, and will obligate compassion centers and, if applicable, licensed cultivators to ensure testing compliance and "testing compliance tracking." Specific authority for said regulations is found at R.I. Gen. Laws § 21-28.6-12(f)(10) and § 21-28.6-16(f). The DOH Testing Regulations may require compassion centers and/or licensed cultivators to pay the costs associated with testing their product.

- 8. "Marijuana and marijuana products" shall refer to marijuana, as defined in the Rhode Island Uniform Controlled Substances Act, R.I. Gen. Laws § 21-28-1.02(26), and is deemed to specifically include the following subcategories:
 - a. "Mature marijuana plant," which shall refer to a marijuana plant that has flowers or buds that are readily observable by an unaided visual examination. R.I. Gen. Laws § 21-28.6-3(14).
 - b. "Seedling," which shall refer to a marijuana plant with no observable flowers or buds. R.I. Gen. Laws § 21-28.6-3(20).
 - c. "Plant," which shall refer collectively to both and/or independently to either "mature marijuana plants" and "seedlings," as the context requires.
 - d. "Unusable marijuana," which shall refer to marijuana seeds, stalks, seedlings, and unusable roots. R.I. Gen. Laws § 21-28.6-3(21).
 - e. "Usable marijuana," which shall refer to the dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant. R.I. Gen. Laws § 21-28.6-3(22).
 - f. "Dried usable marijuana," which shall refer to the dried leaves and flowers of the marijuana plant after the wet harvested leaves and flowers of the marijuana plant have undergone the drying process. R.I. Gen. Laws § 21-28.6-3(9); DOH Regulations § 1.10.
 - g. "Wet marijuana," which shall refer to the harvested leaves and flowers of the marijuana plant before they have reached a dry usable state. R.I. Gen. Laws § 21-28.6-3(23). Pursuant to DOH Regulations § 1.30, marijuana that has been dried to a usable state shall be assumed to have yielded twenty percent (20%) of the weight of the wet marijuana.

- h. "Marijuana infused products," which shall refer to product infused with medical marijuana or an extract of medical marijuana that is intended for use or consumption other than by smoking, including but not limited to ointments, oils tinctures, and edible products (hereinafter referred to as "infused edible product"). See DOH Regulations § 1.15.
- i. "Concentrate," synonymous with "extract," is any type of marijuana product that is refined from usable plant material into a more purified form of usable marijuana including but not limited to hash, supercritical CO2 oil, butane hash oil, shatter, budder, wax, tinctures, infused butter, infused oils, and rosin.
- 9. Tetrahydrocannabinol is abbreviated herein as "THC."
- 10. Cannabidiol is abbreviated herein as "CBD."
- 11. "Medical Marijuana Program Tracking System" shall refer to any system(s) designated by DBR and DOH designed and used to record and track all "seed to sale" activities and transactions with unique identifiers. The Medical Marijuana Program Tracking System may also be used for registration, licensing, and tagging applications, renewals, change of information, and communications, as well as to record and/or report any other additional information directed by DBR or DOH.
- 12. "Seed to sale" shall refer to all medical marijuana program regulated activities and transactions from point of origin to the point of sale. Seed to sale activities and transactions include but are not limited to: all cultivation, harvest, processing, manufacturing, and packaging and labeling; all purchases, acquisitions or third party supply of marijuana; all sales and dispensing transactions, any other transfers of marijuana as permitted by the Act and any and all applicable regulations promulgated thereto; any instances of destruction of marijuana; and testing compliance tracking.
- 13. All other terms used herein shall have the same meanings at set forth in the Act, including particularly the definitions under R.I. Gen. Laws § 21-28.6-3, and as may be further defined within the DBR Regulations and the DOH Regulations.
- B. Limitations on Scope of the Rhode Island Medical Marijuana Program
 - 1. The scope of these DBR Regulations is limited to authorized activities under the Rhode Island Medical Marijuana Program and does not extend to any acquisition, possession, cultivation, manufacture, delivery, transfer, transportation, or sale for non-medical purposes. See R.I. Gen. Laws § 21-28.6-3(15)(defining "medical use") and R.I. Gen. Laws § 21-28.6-

2(5)(legislative findings making distinction between medical and nonmedical use).

- The protections and immunities for participation in the Rhode Island Medical Marijuana Program set forth in R.I. Gen. Laws §§ 21-28.6-4 (patient and caregivers), 21-28.6-12(h)(compassion centers), and 21-28.6-16(m)(cultivators) do not apply to any activities beyond the borders of the state of Rhode Island.
- C. DBR's Role in Administration of the Rhode Island Medical Marijuana Program
 - 1. DBR is responsible for the administrative functions required to implement the provisions of the Act and the DBR Regulations related to compassion centers, licensed cultivators, and cooperative cultivations, including but not limited to licensing, operational requirements, and enforcement. See R.I. Gen. Laws § 42-14-2(a)(4).
 - 2. DBR and DOH have jointly determined that DBR will primarily administer all aspects of the medical marijuana plant tag program to fulfill the state obligation to monitor and verify compliance with the statutory requirements that patient cardholders electing to grow and primary caregiver cardholders do not exceed plant limits, properly tag all permitted plants, and do not grow at more than one location. See R.I. Gen. Laws § 21-28.6-15 and § 21-28.6-4; DOH Regulations § 4.9.
- D. DBR General Rulemaking Authority

R.I. Gen. Laws § 42-14-17 provides that DBR may promulgate such rules and regulations as are necessary and proper to carry out the duties assigned to it by any provision of law.

E. Procedural Rules

Enforcement hearings shall be handled in accordance with Department of Business Regulation Central Management Regulation 2 entitled Rules of Procedure for Administrative Hearings and the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 et seq.

F. Acceptance of Electronic Records and Signatures

In accordance with the Uniform Electronic Transactions Act (UETA), R.I. Gen. Laws § 42-127.1-1 et seq., DBR may determine whether, and the extent to which, it will accept electronic records, documents, notifications, and signatures from other persons or entities where the Act or DBR administered regulations refer to written records, documents, notifications, and signatures.

1.2 Compassion Center Registration Application and Licensing Provisions

A. Authority

R.I. Gen. Laws § 21-28.6-12(b)(1)(i) authorizes DBR to promulgate regulations regarding the form and content of registration and renewal applications for compassion centers.

- B. Compassion Center Application and Registration Timeline
 - Applications for compassion centers may only be submitted to DBR for consideration during an open application period announced by DBR. Open application periods will only be announced upon revocation, relinquishment, or expiration of an existing compassion center, as provided in R.I. Gen. Laws §§ 21-28.6-12(b)(7)(ii), 21-28.6-12(b)(8), and 21-28.6-12(d)(3).
 - 2. Upon notification of an approval of an application from DBR, the approved applicant must take reasonable and documented efforts to complete the prerequisites for issuance of the registration which steps are detailed in Section 1.2(E). If such efforts take longer than nine (9) months, the approved applicant must show good cause to DBR why additional time should be granted and the application approval should not be rescinded.
 - 3. Once the registration has been issued by DBR, the compassion center must take reasonable and documented efforts to launch compassion center activities, which for purposes of this paragraph shall mean actual medical marijuana cultivation, processing, packaging, manufacturing, authorized sales and/or other medical marijuana activities requiring a compassion center pursuant to the Act. If such efforts take longer than one (1) year, the compassion center must show good cause to DBR why the license should not be revoked for non-use.
- C. Application for Compassion Center Registration
 - 1. DBR will evaluate applicants based upon the information provided by applicants on the application forms/submissions and otherwise obtained during the application process.
 - 2. Each application for a compassion center shall be on such forms and through such submission mechanisms as designated by DBR and shall include:
 - a. A non-refundable application fee set by R.I. Gen. Laws § 21-28.6-12(c)(1)(i) (\$250).

- b. The applicant's legal and any d/b/a name(s), certificate of incorporation under R.I. Gen. Laws § 7-6-36 or certificate of authority under § 7-6-70, articles of incorporation and bylaws, and, if applicable, documentation of recognition as a tax-exempt organization by the US Internal Revenue Service.
- c. A business plan, including scope of activities, budget and resource narratives, and timeline for initiating operations.
- d. The proposed physical location of the compassion center (by plat and lot number, mailing address, etc.), if a precise location has been determined. This may also include one additional location to be used for the secure cultivation of medical marijuana. If a precise physical location has not been determined, a description of the general location(s) where it may be sited, if approved, and the expected schedule for purchasing or leasing said location(s). Regarding the proposed physical location(s), the applicant shall submit:
 - (1) Evidence of compliance or preliminary determination of compatibility of the location(s) with the local zoning laws.
 - (2) Evidence that the physical locations are not located within one thousand feet (1,000') of the property line of a preexisting public or private school in compliance with R.I. Gen. Laws § 21-28.6-12(f)(2). For the purposes of this paragraph, "private school" shall be deemed to refer to any nonpublic institution of elementary or secondary (K-12th Grade) education, accredited or recognized as a private school by the department of elementary and secondary education or the school committee of the city or town having jurisdiction over private schools. For purposes of this paragraph, the 1000 foot distance shall be measured from the secured compassion center premises, which shall include allotted outdoor areas (such as parking and loading areas), to the property line of the school, which shall include the school building, land, and appurtenances.
 - (3) A draft diagram of the proposed facilities, including where within the facility the medical marijuana will be cultivated, stored, processed, packaged, manufactured and dispensed, and where security alarms and cameras and surveillance recording storage will be located, and showing the location of the facility relative to streets and other public areas.

- (4) A description of objective parameters (such as distances from streets and public areas) and/or proposed measures (such as black-out window shades) that ensure that marijuana at the premises shall not be visible from the street or other public areas.
- (5) Evidence of either ownership of property or agreement by owner of property to allow the operation of a compassion center on the property, including the cultivation and/or sale of medical marijuana, if property has already been purchased or leased at the time of the application.
- e. The legal name, current address, and date of birth of each principal officer, director or member of the compassion center.
- f. A list of all persons or entities (legal names and current addresses) having direct or indirect authority over the management or policies of the compassion center.
- g. If a compassion center will have a management agreement in place, it shall also include a copy of the management agreement or management agreement proposal and a list of persons who have any ownership interest or operational control over the management company.
- h. A list of all persons or business entities (legal names and current addresses) having any ownership interest in the applicant entity, whether direct or indirect.
- i. If the compassion center premises and/or other operational assets will be owned or leased by a person or entity other than the applicant, the legal name and current address of such person or entity and a list of all persons or entities (legal names and current addresses) having any ownership interest in such entity, whether direct or indirect.
- j. The legal names and current addresses of all creditors holding a security interest in the premises and/or other assets to be used in the compassion center operations, if any.
- k. Tax Affidavit in accordance with R.I. Gen. Laws § 5-76-1 et seq.
- I. Other written materials which will allow DBR to determine the compassion center's ability to comply with the review criteria contained in R.I. Gen. Laws § 21-28.6-12(c)(3).

- m. All other information required by DBR as described in the application form.
- 3. Only applications which DBR has determined to be complete (i.e., adequately address all application requirements above) shall be eligible for review. An applicant who submits an incomplete application shall receive written notification from DBR regarding the specific deficiencies and shall be allowed to resubmit additional material to address these deficiencies within a reasonable timeframe.
- D. Compassion Center Application Review Criteria

DBR shall utilize the criteria specified in R.I. Gen. Laws § 21-28.6-12(c)(3) of the Act to review applications for a registration certificate to operate a compassion center.

- E. Prerequisites to Issuance of Compassion Center Registration and Commencement of Operations
 - 1. If an applicant seeking to operate a compassion center is notified that its application has been approved by DBR, it shall complete the below steps before a registration certificate authorizing operation of a compassion center will be issued.
 - 2. Annual Compassion Center Registration Fee: The annual registration fee set by R.I. Gen. Laws § 21-28.6-12(c)(5)(i)(\$5000) must be paid.
 - 3. Final Information and Documentation to be Supplied: The applicant must provide any updates to previously submitted application information and the following additional items to DBR:
 - A sufficient description of the final physical location of the compassion center (by plat and lot number, mailing address, etc.). This shall include any additional address to be used for the secure cultivation of medical marijuana (if applicable).
 - b. Evidence of complete compliance of the facility with the local zoning laws in the form of a letter from an authorized zoning official of the municipality and certification by an authorized officer of the applicant as to compliance with any other applicable local ordinances.
 - c. Unless already provided at time of initial application, evidence that all of the physical addresses to be utilized as a compassion center or for the secure cultivation of medical marijuana are not located within one thousand feet (1,000') of the property line of a preexisting public or private school. See Section 1.2(C)(2)(d)(2).

- d. A current Certificate of Occupancy (or equivalent document) to demonstrate compliance with the relevant provisions of Chapters 28.1 and 27.3 of Title 23 of the R.I. General Laws [Fire Safety Code and State Building Code, respectively] for each physical address to be utilized as a compassion center or for the secure cultivation of medical marijuana.
- e. Evidence of either ownership of property or agreement by owner of property to allow the operation of a compassion center on the property, including the cultivation and/or sale of medical marijuana.
- f. A final diagram of the proposed facilities, including where within the facilities the medical marijuana will be cultivated, stored, processed, packaged, manufactured and dispensed, and where security alarms and cameras and surveillance recording storage will be located, and showing the location of the facilities relative to streets and other public areas.
- g. The name, address and date of birth of any person who will be an agent, employee or volunteer of the compassion center at its inception.
- h. Evidence of completion of divestiture plan pursuant to Section 1.2(E)(6)(e).
- 4. In accordance with R.I. Gen. Laws § 21-28.6-12(f)(5), request that RISP visit the compassion center to inspect the facility security and make any recommendations regarding the security of the facility and its personnel within ten (10) business days prior to the initial opening of the compassion center and any alternative cultivation site.
- 5. DBR Pre-Registration Inspection

Before a compassion center registration will be issued, a DBR inspection is required. Approved applicants should contact DBR to coordinate said inspection. Nothing in this paragraph should be construed as limiting inspections at an earlier time in addition to the final pre-registration inspection.

- 6. Divestiture of Prohibited Material Financial Interest and Control
 - A compassion center and "key persons" thereof may not have any "material financial interest or control" in another compassion center, a cultivator, or a licensed cooperative cultivation or vice versa. See R.I. Gen. Laws § 21-28.6-12(c)(1)(iii)(limiting a compassion center to one additional location to cultivate its marijuana); R.I. Gen. Laws § 21-28.6-12(b)(1)(ii)(DBR minimum oversight over compassion

> centers); R.I. Gen. Laws § 21-28.6-16(i)(cultivator to be licensed at one location only); R.I. Gen. Laws § 21-28.6-16(b)(2)(DBR minimum oversight over cultivators); R.I. Gen. Laws § 21-28.6-3(4)(i) and R.I. Gen. Laws § 21-28.6-3(12)(separately defining "compassion center" and "licensed cultivator," respectively); R.I. Gen. Laws § 21-28.6-14(a)(10)(DBR authority to regulate operations of licensed cooperative cultivations); R.I. Gen. Laws § 21-28.6-4(q)(qualifying patient and primary caregiver cardholders may only grow at one location).

- R.I. Gen. Laws § 21-28.6-12(f)(10) authorizes regulations regarding testing of medical marijuana and marijuana product cultivated and/or manufactured by compassion centers, which will include ensuring the independence of third party testing providers. Accordingly, a compassion center may not have any material financial interest or control in a Rhode Island DOH-approved third party testing provider and vice versa.
- c. "Material financial interest or control" shall mean: i) any ownership interest, regardless of the size of the holding, and including any ownership interest through a subsidiary or affiliate; ii) trusteeship, mortgage, guarantor, endorser or surety relationship, or loan relationship, except that loan relationship for the purposes of this definition shall exclude accounts payable and accounts receivable on account of a medical marijuana purchase order; iii) any other beneficial financial interest such that the holder bears the risk of loss (other than as an insurer) or has an opportunity to gain profit from the operation or sale of the regulated medical marijuana business; iv) operational control, including but not limited to interlocking directors or officers or through a management agreement.
- d. "Key persons" shall mean officers, directors, and any persons with managing or operational control.
- e. Therefore, if a compassion center application is approved and any prohibited material financial interest or control has been identified by DBR or is otherwise known to the compassion center applicant, such interest or control must be divested prior to issuance of the compassion center registration certificate. The plan of divestiture shall be filed with DBR.
- f. The duty to divest prohibited material financial interests and control is a continuing obligation of registration.
- 7. Registry Identification Card Requirements

Before commencement of operations, all principal officers, board members, employees, agents, and volunteers of the compassion center must apply for a registry identification card and submit to a national criminal background check as provided in Section 1.3. Such individuals may be hired, appointed, or retained prior to receiving a registry identification card, but may not begin engagement in medical marijuana cultivation, storage, processing, packaging, manufacturing, transport, dispensing or other medical marijuana activities requiring registration pursuant to the Act until receipt of the card.

F. DBR Post-Registration Inspection of Operations and Inventory

After the compassion center registration is issued, the compassion center shall notify DBR when it obtains inventory and commences operations. DBR may conduct a post-licensure inspection upon this commencement of operations, including but not limited to inspection for compliance of medical marijuana and marijuana product inventory with the tagging and tracking requirements set forth in Section 1.4(E). Nothing in this paragraph shall be construed to limit DBR's general inspection powers as delineated in Section 1.4(K).

- G. Changes in Location, Floor Plan, Ownership and Control of Compassion Center; Continuing Duty to Update Application Information; Discontinuation of or Failure to Launch Compassion Center Activities
 - 1. A registration certificate authorizing operation of a compassion center shall not be assigned or otherwise transferred to other persons or locations.
 - 2. A compassion center shall provide DBR with a written notice of any change described below at least sixty (60) calendar days prior to the proposed effective date of the change:
 - a. A change in ownership of the compassion center.
 - b. Change in the membership of a board of directors or board of trustees.
 - c. Change in corporate officer.
 - d. Merger, dissolution, or entity conversion.
 - e. Entering into a management agreement, changing management companies, and/or material changes to an existing management agreement.

- f. Changes in the approved premises location for cultivation and/or sale of medical marijuana.
- g. Change to approved premises floor plan.
- h. Proposed premises expansion.
- 3. Unless the compassion center provides timely notification of the above changes and receives prior DBR approval or waiver of the requirement of prior notice and approval (for example a non-material change in ownership or emergency situation as determined by DBR), the registration certificate shall be void and returned to DBR.
- 4. As to any proposed change of ownership or to a management agreement that will effect a change of majority control and/or decision-making authority with respect to the operation of the compassion center or as to any proposed change in an approved premises location for the cultivation and/or sale of medical marijuana, DBR may require the compassion center to follow the process for a new application, which may include a new application fee and/or hearing.
- 5. For updates in information other than the categories requiring sixty (60) calendar days prior notice, the compassion center has a continuing obligation to update, amend and/or correct any information requested and/or submitted in the application process within ten (10) business days after any change in the information submitted and/or any material change in circumstances related to the application. This includes timely notification and divestiture if a prohibited interest as delineated in Section 1.2(E)(6) is acquired by operation of law.
- 6. If the compassion center proposes to alter the final floor plan previously submitted and approved, the compassion center must first submit a renovation plan for DBR approval 60 (sixty) calendar days prior to commencement of construction. The renovation plan must specifically address quality control procedures for the protection of medical marijuana and medical marijuana products from any contamination during the construction process and further address any other criteria DBR requires.
- 7. In addition to the requirements of paragraph 6 above, any expansion of the approved premises further requires explanation by the compassion center that the request to expand is justified by the projected needs of qualifying patients. See R.I. Gen. Laws § 21-28.6-12(i)(1).
- 8. The registration certificate shall be void and returned to DBR if the compassion center discontinues its operation, unless the discontinuance is on a temporary basis approved by DBR. Once a registration certificate is issued, the compassion center must take reasonable and documented

efforts to launch compassion center activities. If such efforts take longer than one (1) year, the compassion center must show good cause to DBR why the registration certificate should not be revoked.

- H. Annual Renewal
 - 1. Compassion center registrations shall be issued for one year terms.
 - 2. Annual renewals shall be submitted on such forms and include such information as prescribed by DBR.
 - 3. Pursuant to R.I. Gen. Laws § 21-28.6-12(d)(2), DBR's review of compassion center renewal applications shall include consideration of whether the compassion center is adequately providing patients with access to medical marijuana at reasonable rates.
 - 4. An annual inspection shall be part of the annual renewal process.

1.3 Compassion Center Cardholder Registry Identification Card Provisions

- A. Compassion Center Cardholder Definitions
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-3(4)(ii), "compassion center cardholder" includes all principal officers, board members, employees, agents, and volunteers associated with the compassion center.
 - 2. "Agent" of a compassion center shall include, but not be limited to, "testing agents."
 - 3. "Testing agent" shall mean an employee of an approved third party testing provider who performs independent testing of medical marijuana and/or marijuana products of the compassion center in accordance with the DOH Testing Regulations, once adopted.
- B. Registry Identification Card Requirement, Eligibility, Annual Fee and Application
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(6), all principal officers, board members, employees, agents, and volunteers of a compassion center must apply for compassion center registry identification cards.
 - 2. Each compassion center shall maintain a current list of all compassion center cardholders associated with that compassion center.
 - 3. Compassion center cardholders shall be at least twenty-one (21) years old.

- 4. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(6), DBR hereby sets the nonreturnable, non-refundable annual fee for a compassion center registry identification card, including each initial application and subsequent annual renewal, at one hundred dollars (\$100.00).
- 5. Applications pursuant to this section shall be on such forms and through such submission mechanisms as directed by DBR.
- 6. Eligibility for the compassion center "volunteer" designation shall be limited to persons whose volunteer activities and use of compassion center resources is strictly limited to participation in educational programming conducted for compassion center cardholders and registered qualifying patients, primary caregivers, and authorized purchasers. Volunteers shall not be permitted to be otherwise involved in the growth, cultivation, weighing, packaging or labeling, manufacturing, processing, dispensing or sale of medical marijuana.
- C. Criminal Background Checks
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7), all compassion center cardholders will be subject to a national criminal background check as part of their application for a compassion center registry identification card (hereinafter also referred to in this section as "applicants").
 - 2. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7), DBR shall deny an application for registration if the background check reveals the applicant has been convicted of a felony drug offense or has entered a plea of nolo contendere for a felony drug offense and received a sentence of probation, unless the applicant successfully petitions for an exception pursuant to Section 1.3(C)(8).
 - 3. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7)(i), applicants shall apply to RISP for a national criminal identification records check that shall include fingerprints submitted to the Federal Bureau of Investigation.
 - 4. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7)(i), upon the discovery of a felony drug offense conviction or a plea of nolo contendere for a felony drug offense with a sentence of probation, RISP shall inform the applicant, in writing, of the nature of the felony.
 - 5. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7)(i), upon discovery of disqualifying information, RISP shall notify DBR, in writing, without disclosing the nature of the felony, that a felony drug offense conviction or a plea of nolo contendere for a felony drug offense with probation has been found.

- 6. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7)(ii), in those situations in which no felony drug offense conviction or plea of nolo contendere for a felony drug offense with probation has been found, RISP shall inform the applicant and DBR, in writing, of this fact.
- 7. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7)(iii), applicants shall be responsible for any expense associated with the national criminal background check with fingerprints.
- 8. R.I. Gen. Laws § 21-28.6-12(c)(7) provides DBR with discretion to grant a compassion center registry identification card if the disqualifying offense was for conduct that occurred prior to the enactment of the Act or that was prosecuted by an authority other than the state of Rhode Island and for which the Act would otherwise have prevented a conviction. To seek relief from criminal background disqualification pursuant to R.I. Gen. Laws § 21-28.6-12(c)(7), the applicant must make the request for relief to the DBR in writing, setting forth in detail why the Act would have prevented a conviction, including all applicable court records and legal documents. The DBR may conduct a hearing on the issue and, if so, the applicant shall bear the burden of proof to show why the relief should be granted.
- 9. R.I. Gen. Laws § 21-28.6-12(c)(7) provides that the compassion center will be notified in writing of the purpose for denying a compassion center cardholder application. DBR shall limit its disclosure of the purpose to a statement of the fact that disqualifying information was found, without revealing to the compassion center any further detail of the offense.
- 10. DBR will not require a person subject to a national criminal background check under this subsection to undergo such a check more than once every two (2) years, unless a more frequent time frame is mandated and/or agreed to as part of a license disciplinary action.
- D. Issuance of the Compassion Center Registry Identification Card
 - 1. Once the application is approved by DBR, the principal officer, board member, agent, volunteer or employee of the compassion center is responsible for getting a registry identification card from DOH.
 - 2. Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(6), the registry identification card shall contain:
 - a. The name, address and date of birth of the person.
 - b. The legal name of the compassion center that the individual is affiliated with.

- c. The category of the person's affiliation: principal officer, board member, employee, agent, or volunteer.
- d. The date of issuance and expiration date of the registry identification card.
- e. A random registry identification number.
- f. A photograph.
- E. Expiration and Renewal of Compassion Center Registry Identification Cards

Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(8), compassion center registry identification cards shall expire one year after issuance. Renewal applications shall be on such forms and through such submission mechanisms as directed by DBR.

- F. Change in Name or Address; Lost/Stolen Cards
 - In accordance with R.I. Gen. Laws § 21-28.6-12(c)(9), a compassion center cardholder shall notify DBR of any change in his or her name or address within ten (10) business days of such change. A compassion center cardholder who fails to notify DBR of any of these changes may be subject to a fine up to one hundred fifty dollars (\$150).
 - 2. In accordance with R.I. Gen. Laws § 21-28.6-12(c)(10), changes in name and/or address require the compassion center cardholder to remit a ten dollar (\$10.00) fee to DBR. Upon receipt of the notice and fee, DBR will prompt DOH to issue an updated registry identification card. The compassion center cardholder shall be responsible for getting the updated registry identification card from DOH.
 - 3. In accordance with R.I. Gen. Laws § 21-28.6-12(c)(11), if a compassion center cardholder loses his or her registry identification card (which would particularly include a card suspected to be stolen), he or she shall notify DBR and submit a ten dollar (\$10.00) fee within ten (10) business days of losing the registry identification card. Upon receipt of the notice and fee, DBR will prompt DOH to issue a replacement registry identification card. The compassion center cardholder shall be responsible for getting the replacement registry identification card from DOH.
- G. Duty to Notify DBR of Disqualifying Criminal Information

Pursuant to R.I. Gen. Laws § 21-28.6-12(c)(13), a compassion center cardholder shall notify DBR of any disqualifying criminal convictions as defined in §21-4 28.6-12(c)(7). Such notification must be made in writing within ten (10) business days.

- H. Termination of Compassion Center Registry Identification Card
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-12(i), a person found to have dispensed marijuana to a non-cardholder or in excess of the statutory limits is not eligible to be a compassion center cardholder, and such person's registry identification card shall be immediately revoked.
 - If a compassion center cardholder violates any other provisions of the Act, DBR Regulations, or DOH Regulations, his or her registry identification card may be suspended/revoked as determined by DBR pursuant to R.I. Gen. Laws § 21-28.6-12(c)(14).
 - 3. Pursuant to R.I. Gen. Laws § 21-28.6-12(f)(3), when a compassion center cardholder ceases work with a compassion center, whether voluntarily or involuntarily or upon the compassion center closing, his or her registry identification card shall be null and void. See also R.I. Gen. Laws § 21-28.6-12(c)(8). In that situation, the compassion center and/or the compassion center cardholder shall notify DBR and the registry identification card shall be returned to DBR within ten (10) business days. No hearing shall be necessary to render the card null and void in this situation. In addition to being null and void, a penalty of up to one hundred and fifty dollars (\$150) may be assessed for failure to return the card within the ten (10) day period.

1.4 Compassion Center Operational Provisions

A. State Medical Marijuana Program Tracking System

Upon direction by the DBR and in accordance with R.I. Gen. Laws § 21-28.6-12(g)(3), each compassion center shall be required to utilize the state approved Medical Marijuana Program Tracking System to document and monitor compliance with the Act, the DBR Regulations, and the DOH Regulations, including but not limited to seed to sale and point of sale tracking, dispensing limits and the patient information privacy protections, inventory supply tracking, adherence to restrictions on third party supply and sources of marijuana and marijuana products and transfers thereof off the registered premises, and all testing compliance tracking. Compassion centers may be required to pay costs associated with use of the Medical Marijuana Program Tracking System which may be assessed on an annual, monthly, per use, or per volume basis and payable to the state or to its approved vendor.

- B. Permitted and Prohibited Sources of Marijuana; Contract Requirement
 - 1. A compassion center can only legally purchase or otherwise receive marijuana from a Rhode Island licensed cultivator as authorized by R.I. Gen. Laws § 21-28.6-16(e), which has a "formal agreement" requirement.

- 2. "Formal agreement" requirements shall be as follows: A written executed contract or purchase order shall be required for all sales from a licensed cultivator to a compassion center and shall contain the following minimum terms: a) date of execution/placement of the contract/purchase order, b) description and amount of product to be sold; c) the total and per unit price of the product to be sold; d) the specific date or date range not spanning more than thirty (30) calendar days for fulfillment of the order and delivery or pickup; e) the payment due date, as specifically agreed between the parties, but if no date is specifically agreed to, payment shall be made within sixty (60) calendar days of delivery or pickup. Contracts/purchase orders pursuant to this paragraph may not be modified but may be cancelled or voided by the creation of a new replacement contract/purchase order.
- In accordance with R.I. Gen. Laws § 21-28.6-4(c) and (i), a compassion center cannot purchase or otherwise receive marijuana from any qualifying patient cardholder or primary caregiver after December 31, 2016. This prohibition extends to purchases and transfers from cooperative cultivations.
- C. Permitted and Prohibited Sales and Transfers
 - Sales to qualifying patients, directly or through their caregivers or authorized purchasers, are only permitted if those qualifying patients, caregivers, or authorized purchasers are registered with DOH. For such sales, a compassion center shall be strictly bound by the dispensing limits of R.I. Gen. Laws § 21-28.6-12(g). Sales for delivery to a qualifying patient cardholder's residence are deemed permitted provided that such sales comply with Section 1.4(J)(3)(e).
 - 2. A compassion center is permitted to transfer or transport medical marijuana and marijuana products to a Rhode Island licensed cultivator only if the transfer/transport is pursuant to a written contract or purchase order for the cultivator to process the medical marijuana into a product to be furnished back to the compassion center.
 - 3. Any transfer to or from a third party testing provider shall be in accordance with the DOH Testing Regulations, once adopted.
 - 4. Unless specifically permitted by this section, no other compassion center sales or transfers of marijuana or marijuana products are permitted.
- D. Inventory Limit

Pursuant to R.I. Gen. Laws § 21-28.6-12(i)(1), a compassion center must limit its inventory of seedlings, plants, and usable marijuana to reflect the projected needs of qualifying patients.

- E. Medical Marijuana and Marijuana Product Tagging for Compassion Centers
 - 1. The compassion center shall properly use tags with unique identifiers through the Medical Marijuana Program Tracking System, or if prior to the implementation of the Marijuana Program Tracking System, DBR will advise the compassion center of acceptable alternative inventory tagging and tracking systems and protocols. In such a case, any references to the Medical Marijuana Program Tracking System in this section shall be deemed to include the acceptable alternatives.
 - 2. Compassion centers must ensure that medical marijuana is marked with Medical Marijuana Program Tracking System unique identifier tags through each stage of production the compassion center is undertaking, from seed propagation through packaging, as may be applicable.
 - 3. Medical Marijuana Program Tracking System unique identifier tags shall contain the following information and/or technical functions:
 - a. DBR registration number.
 - b. Unique identifier(s) (such as barcodes and/or numerical/alphabetical codes) that track marijuana product through each stage of production.
 - c. Registered premises location.
 - d. Any other information or technical functions DBR deems appropriate (such as radio frequency identification).
 - 4. Medical Marijuana Program Tracking System unique identifier tags shall not be altered or duplicated.
 - 5. Unique identifier tags shall be placed in a manner so as to clearly display their association with a particular plant, plant material, or product, such as affixed to the plant itself, on the growing receptacle, or in the growing medium, by labeling drying racks and other receptacles that wet marijuana dries on, by affixing the tag to the stalk for drying on the stalk, on a label affixed to a storage/transport package and/or retail-ready package, and other reasonable means.
 - 6. The unique identifier tags may not be transferred or assigned except when affixed to marijuana plants, wet marijuana, or usable marijuana which is being sold/transferred/transported in accordance with Sections 1.4(B), (C), and (J)(3).
 - 7. Return of unique identifier tags by the compassion center upon revocation or abandonment of the license shall be specifically governed by DBR

order or agreement which may include coordinated efforts with law enforcement. Disposal of unique identifier tags by the compassion center as may be required by DBR, such as in the regular course of tagging if different stages will require different tag forms or such as recall of tags due to new technology, shall be handled in accordance with further instructions provided by DBR.

- F. Inventory Control
 - 1. Upon direction by DBR, each compassion center shall utilize the state approved Medical Marijuana Program Tracking System for all inventory tracking from seed to sale as further defined herein.
 - 2. If the compassion center is notified by DBR that the Medical Marijuana Program Tracking System is not available, the compassion center will be provided with direction as to alternative inventory control measures, which may include but are not necessarily limited to the compassion center being directed to:
 - a. Conduct an initial comprehensive inventory of all medical marijuana, including usable marijuana available for dispensing, marijuana plants and seedlings, unusable marijuana, and wet marijuana, at each authorized location on the date the compassion center first dispenses medical marijuana or as of another date certain set by DBR.
 - b. Conduct subsequent comprehensive inventories at intervals not to exceed twenty-four (24) months from the date of the previous comprehensive inventory.
 - c. Conduct a monthly inventory review of stored, usable marijuana, seedlings, plants, and wet marijuana.
 - 3. Upon request, DBR may require a compassion center to conduct and provide the results of alternative inventory control measures outlined above, regardless of the availability and use of the Medical Marijuana Program Tracking System.
- G. Minimum Security Requirements
 - 1. Authority

R.I. Gen. Laws § 21-28.6-12(b)(1)(iv) authorizes DBR to promulgate regulations regarding the minimum security requirements for compassion centers.

2. General Security Requirements

- a. Each compassion center shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.
- b. Use or carry of firearms on the premises and/or perimeter of the compassion center is a prohibited form of security, except by security guards licensed by the Office of the Rhode Island Attorney General pursuant to R.I. Gen. Laws § 5-5.1-13 and who are under written contract to provide security services to the compassion center and by law enforcement personnel during duty.
- c. The outside perimeter of the compassion center retail premises shall be well-lighted at all times. For any alternative cultivation only site, the premises may be equipped with motion activated lighting acceptable to DBR.
- d. Except for persons whose visit falls within Section 1.4(G)(2)(e) below, any person who does not have a valid compassion center registry identification card who enters any area where marijuana and marijuana products are grown, cultivated, stored, weighed, packaged, processed, manufactured or sold shall be considered a "visitor" and must be escorted at all times by a compassion center registry identification card holder. The compassion must maintain a visitor log for any such activity as detailed in Section 1.4(G)(6)(d).
- e. Registered qualifying patients, primary caregivers, and authorized purchasers are only permitted within point of sale areas. In such areas, the compassion center shall ensure that all marijuana and marijuana products are kept behind the sales counter or other partition and make reasonable efforts to limit the number of registered qualifying patients, primary caregivers, and authorized purchasers present in relation to the number of compassion center cardholders to assure adequate monitoring and control of point of sale area activities.
- f. Each compassion center shall ensure that the storage of marijuana and any marijuana products is in a locked area, meaning that at all points of ingress and egress, the compassion center shall ensure the use of a working commercial-grade door lock.
- 3. Security Alarm Requirements
 - a. Each compassion center shall have a fully operational security alarm system at each authorized physical address that will provide suitable protection against theft and diversion, including alarms at all outside perimeter entry points and outside perimeter windows.

- b. A fully operational security alarm system may include a combination of hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).
- c. A fully operational security alarm system shall at a minimum provide for immediate automatic or electronic notification to alert municipal and/or state law enforcement agencies or public safety personnel to an unauthorized breach or attempted unauthorized breach of security at the compassion center or any other authorized physical address and to any loss-of-electrical support backup system to the security alarm system.
- d. Each compassion center shall establish a protocol for the testing and maintenance of the security alarm system, which shall at a minimum provide for a maintenance inspection/test of the alarm system for each authorized location at intervals not to exceed thirty (30) calendar days from the previous inspection/test and prompt completion of all necessary repairs to ensure the proper operation of the alarm system.
- e. If the compassion center suffers a failure of the security alarm system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period, in addition to the notice requirements provided in Sections 1.4(G)(3)(c) and (G)(7), the compassion center must also close the authorized physical address(es) impacted by the failure/malfunction until the security alarm system has been restored to full operation, or, if approved by DBR, provide alternative security.
- 4. Video Surveillance Requirements

Each compassion center must have a fully operational video surveillance and camera recording system with appropriate protocols, which shall, at a minimum, comply with the below requirements:

a. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, video monitors, and digital archiving devices capable of playback quality sufficient to identify and

monitor all individuals (including sufficient clarity of facial features) and activities in the monitored areas.

- b. The recording system must record in digital format.
- c. The date and time must be embedded on the recording without significantly obscuring the picture. Time is to be measured in Eastern Standard Time.
- d. All video surveillance systems must be equipped with a failure notification system that provides prompt notification of any surveillance interruption and/or the complete failure of the surveillance system. Said notification must be routed to compassion center personnel specifically designated by management and to DBR.
- e. All video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage.
- f. Video recordings must be archived in a format and maintained in a manner that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.
- g. Remote access to a continuous live feed video on a real time basis must be available at all times to compassion center personnel specifically designated by management and to DBR. Additionally, all video surveillance records and recordings must be made available upon request to DBR. DBR employees and representatives will hold video surveillance records and recordings of point-of-sale areas confidential except for authorized release in accordance with applicable law.
- h. The system must include a color printer or similar equipment capable of printing still photos of a quality sufficient to identify individuals and activities in the monitored areas.
- i. Camera coverage is required for all areas where marijuana and marijuana products are grown, cultivated, stored, weighed, packaged, processed, manufactured or sold, including all areas of ingress and egress thereto, point-of-sale areas, security rooms (as defined below), all points of ingress and egress to the exterior of the compassion center, and any computer or other digital access points.

- j. Camera views of required coverage areas shall be continuously recorded twenty (24) hours a day, (7) seven days per week.
- k. All surveillance recordings must be kept for a minimum of sixty (60) calendar days.
- I. Surveillance recording equipment and all video surveillance records and recordings must be housed in a designated, locked and secured room or other enclosure with access limited to compassion center personnel specifically authorized by management (the "security room"). The compassion center must keep on site a current list of all authorized employees and service personnel who have access to the security room and a video surveillance equipment maintenance activity log.
- m. If the compassion center suffers a failure of the video surveillance system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period, in addition to the notice requirements provided in Section 1.4(G)(7), the compassion center must also close the authorized physical address(es) impacted by the failure/malfunction until the video surveillance system has been restored to full operation, or, if approved by DBR, provide alternative premises monitoring.
- 5. Emergency Plan

The compassion center shall develop and maintain an emergency plan with procedures to be followed to prevent and, if not prevented, to adequately address and mitigate consequences of theft or burglary or attempts thereof, fire, natural disasters, and other emergencies, including cybersecurity and data breach procedures to prevent a compromise of the integrity of the Medical Marijuana Program Tracking System. The plan shall include training for employees on crime prevention and personal safety techniques.

6. Security-Related Record-Keeping

The compassion center shall maintain the following documentation on-site and with digital back-up for a period of at least twenty-four (24) months after the event:

- a. Inventory records including, at a minimum, the date the inventory was conducted, a summary of the inventory findings and the name, signature and title of the individual who conducted the inventory.
- b. All records of maintenance, inspections, and tests of the security alarm and video surveillance systems and of servicing,

modifications, or upgrades performed on said systems. These records shall include, at a minimum, the date of the action, a summary of the action(s) performed and the purpose therefor, and the name, signature and title of the individual who performed the action(s).

- c. Emergency notification reports as required by Section 1.4(G)(7).
- d. Visitor logs which shall include the name of each visitor, the date and time of the beginning and end of the visit, the reason for the visit (i.e. maintenance, authorized pickup, etc.), the name of the escorting compassion center registry identification cardholder.
- 7. Emergency Notifications and Reports
 - a. Compassion centers shall provide notification of emergency events to DBR and municipal and/or state law enforcement as outlined below.
 - b. Immediately upon discovery of the event, the compassion center shall provide telephone notification to the appropriate municipal and/or state law enforcement authorities regarding any of the following "emergency events":
 - (1) Theft or burglary or an attempt thereof.
 - (2) Any fire.
 - (3) A natural disaster that results in the destruction of or damage to medical marijuana or marijuana products.
 - (4) A failure of the security alarm system or video surveillance system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period.
 - (5) A security alarm activation.
 - (6) Any other event which requires response by law enforcement or public safety personnel.
 - c. The compassion center shall provide e-mail notification to DBR immediately upon discovery of any data breach or cybersecurity threat to the Medical Marijuana Program Tracking System, and within twenty-four (24) hours of discovery of any other emergency event as defined above. A follow-up telephone notification to DBR shall be provided no later than the next business day.

- d. The compassion center shall submit a follow-up written report to DBR within five (5) business days for each emergency event. The written report shall include, at a minimum, a description of the event(s), identification of known or suspected cause(s) for the event(s), any corrective action(s) taken to prevent a recurrence, and the name, title, and signature of the individual preparing the report.
- e. Any notification and report of an emergency event required to be made to DBR pursuant to these DBR Regulations shall be made using the mailing address, telephone number, and/or e-mail address provided by DBR to approved licensees.
- f. Upon written direction to the compassion center, DBR may require that the written and telephone notifications and reporting must be replaced or supplemented by notifications and reporting through the Medical Marijuana Program Tracking System or any other electronic system or means DBR mandates the compassion center to utilize.
- H. Record-Keeping and Reporting
 - 1. Authority

R.I. Gen. Laws § 21-28.6-12(b)(1)(iii) authorizes DBR to promulgate regulations regarding the minimum record-keeping requirements for compassion centers.

2. Operations Manual

Each compassion center shall develop, implement, and maintain on the premises an operations manual which addresses, at a minimum, the following subject areas and requirements:

- a. Procedures for the organization, administration, command, and control of the compassion center (including but not limited to organizational chart, chain of command protocols, etc.).
- b. Procedures for safely dispensing medical marijuana only to registered qualifying patients, registered primary caregivers, and authorized purchasers, including procedures for verifying authenticity of registry identification cards and other forms of identification.
- c. Procedures to ensure accurate record-keeping, including protocols to ensure that all acquisitions, dispensing, and sales of marijuana are logged into the Medical Marijuana Program Tracking System on

a real time basis and that all dispensing and sales transactions to registered qualifying patients, primary caregivers, and authorized purchases adhere to the limits for usable marijuana prescribed by statute and the marijuana product equivalency limits set by the DOH regulations, and procedures on proper training and use of the Medical Marijuana Program Tracking System and any other tracking system used by the compassion center.

- d. Records retention policies.
- e. Ethics and compliance policies.
- f. Alcohol and drug free work place policy.
- g. If applicable, medical marijuana manufacturing protocols, safety measures, and training information.
- h. Odor control and mitigation plan.
- i. A description of the compassion center's outreach activities to registered qualifying patients, registered primary caregivers, and authorized purchasers.
- j. Customer service protocols.
- 3. Personnel Records

Each compassion center shall maintain a personnel record for each employee, agent or volunteer for a period of at least six (6) months after termination of the individual's affiliation with the compassion center. Said personnel record shall contain the following minimum documentation and information:

- a. An application for employment or to volunteer or offers to provide services as an agent.
- b. An employment or engagement description detailing duties, responsibilities, authority, qualifications and supervision.
- c. If applicable, a copy of any employment or engagement contract or, for volunteers, volunteer agreement.
- d. A record of any disciplinary action taken.
- e. Documentation of all required training, which shall include a signed statement from the individual indicating the date, time and place he

or she received said training, topics discussed, and the name and title of presenters.

4. Additional Records to be Maintained

In addition to all other specific record-keeping requirements of the Act, the DBR Regulations, and the DOH Regulations, the compassion center shall maintain the following records for a minimum of five (5) years:

- a. All contracts and purchase orders with licensed cultivators, including documentation of any cancelled contracts or purchased orders and any contracts and purchase orders voided by replacement contracts.
- b. Invoices and any supporting documentation of all marijuana purchases, acquisitions, transfers, and payments.
- c. Contracts pertaining to the security alarm and security camera systems.
- d. Contracts with vendors, including any approved third party testing providers.
- e. All records normally retained for tax purposes.
- 5. Storage of Records

Records pertaining to transactions occurring within the last six (6) months shall be stored on the registered premises. Records dating further back may be stored off the premises with DBR's approval.

6. Responsibility for Loss of Records and Data

The compassion center shall exercise due diligence and reasonable care in preserving and maintaining all required records to guard against loss of records and data, including cybersecurity of electronically-maintained records.

- I. Product Packaging and Labeling Requirements
 - 1. Authority and Applicability
 - These product packaging and labeling requirements for compassion centers are promulgated pursuant to R.I. Gen. Laws § 21-28.6-12(f)(11). These requirements were developed jointly with DOH.

- b. Compassion centers shall have ninety (90) calendar days from the effective date of these regulations to comply with these requirements.
- c. Any container or packaging containing usable marijuana or marijuana product, including both retail-retail ready packaging and product otherwise packaged for the purpose of storage and/or authorized transport, must:
 - (1) Protect the product from contamination.
 - (2) Not impart any toxic or deleterious substance to the usable marijuana or marijuana product.
 - (3) Contain the Inventory tracking ID number assigned by the Medical Marijuana Program Tracking System or, if prior to the Medical Marijuana Program Tracking System's implementation, an inventory tracking ID number generated from an alternative inventory tracking system approved by DBR.
 - (4) Be labeled with the quantity of the product.
- d. The remainder of these product packaging and labeling requirements only apply to retail-ready product packaging and labeling.
- e. Compliance with these product packaging and labeling requirements shall include the requirement that retail-ready product complies with the DOH Testing Regulation, once adopted.
- f. While a compassion center is permitted to purchase medical marijuana and medical marijuana products from a Rhode Island licensed cultivator pursuant to a written contract/purchase order, including final products that have already been packaged, labeled, and/or tested, the compassion center is responsible for ensuring the integrity of the product, compliance of the packaging and labeling, including particularly that the products have the correct composition and profiles that are advertised/indicated in the label.
- 2. Packaging and labeling shall not:
 - a. Make any false or misleading statements including particularly any statements regarding health or physical benefits to the consumer and the composition and profiles that are advertised/indicated in the label.

- b. Resemble the trademarked, characteristic or product-specialized packaging of any commercially available snack, baked good, or beverage.
- c. Contain any statement, artwork, or design that could reasonably mislead any reasonably prudent person to believe that the package contains anything other than medical marijuana or marijuana product.
- d. Contain any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any reasonably prudent person to believe that the product has been endorsed or manufactured by the State of Rhode Island or any agency thereof or municipality within.
- 3. Packaging for medical marijuana and marijuana products sold at retail shall be opaque, light-resistant, and tamper-evident.
- 4. Packaging and labeling shall not be designed such that it would be attractive to children. This requires the packing and labeling be in black and white only, have no animal characters, and does not contain the word "candy."
- 5. Medical marijuana and marijuana products sold at retail must be packaged in manner that is "child-resistant," which for purposes of these Regulations shall mean that the packaging is designed and constructed to be significantly difficult for children under five years of age to open. Approved methods include but are not limited to:
 - a. Solid or liquid marijuana products may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap.
 - b. Liquid marijuana products may also be packaged in a bottle and sealed using a metal crown cork style bottle cap or other similar sealing method pre-approved by DBR.
- 6. For solid edible marijuana products with more than one serving size in the outer package, each serving must be packaged individually and placed in a child-resistant outer package.
- 7. For liquid edible marijuana products with more than one serving in the package, a measuring cap or dropper must be included in the package with the product.
- 8. All medical marijuana and marijuana products when sold at retail must include a label affixed to the package containing the following information, prominently displayed and in a clear and legible English language font:

- a. The business or trade name of the selling compassion center.
- b. Inventory tracking ID number assigned by the Medical Marijuana Program Tracking System or, if prior to the Medical Marijuana Program Tracking System's implementation, an inventory tracking ID number generated from an alternative inventory tracking system approved by DBR.
- c. Date of final packaging, and, if applicable, the recommended expiration or "use by" date.
- d. Total weight in ounces and grams or volume as appropriate. Weight and volume must be determined using accurately calibrated equipment which equipment must also comply with any other applicable state laws.
- e. Total estimated amount of THC and total estimated amount of CBD.
- f. For edible marijuana products, a list of all ingredients used.
- g. A statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.
- h. If solvents were used, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.
- i. Any applicable instructions for use and safe storage.
- 9. All medical marijuana and marijuana products when sold at retail must include a label affixed to the package containing the following warnings, prominently displayed and in a clear and legible English language font. For products other than edibles and topical applications, these warnings may be on an insert provided with the packaging.
 - a. "Warning: Marijuana has intoxicating effects and may be habit forming and addictive. The intoxicating effects of marijuana may be delayed by up to two hours."
 - b. "Warning: Do not operate a vehicle or machinery under its influence."
 - c. "Warning: There may be health risks associated with consumption of marijuana."

- d. "Warning: For use only by adults twenty-one and older. Keep out of reach of children."
- e. "Warning: Marijuana should not be used by women that are pregnant or breast feeding."
- f. "Warning: Do not take this product across state lines."
- g. "Warning: For medical use by a registered patient only. Not for resale."
- h. "Warning: This product is not certified to be free of contaminants."
- i. For product to be smoked, "Warning: Smoking is hazardous to your health."
- j. If applicable, a warning regarding use or contact with any nuts or other known allergens as defined in the federal Food Allergen Labeling and Consumer Protection Act of 2004, as administered by the federal Food and Drug Administration.
- 10. Notwithstanding any of the product labeling requirements set forth in this Section 1.4(H), application may be made to DBR for approval to affix a two inch (2") by two inch (2") logo or graphic, which may be colored, for the purpose of identifying the compassion center selling and/or the cultivator producing the product.
- J. Other Compassion Center Operation Requirements
 - 1. Authority

R.I. Gen. Laws § 21-28.6-12(b)(1)(ii) authorizes DBR to promulgate regulations regarding the minimum oversight requirements for compassion centers. The requirements set forth in this section are promulgated in accordance with that statutory duty of general regulatory supervision over the compassion centers.

2. Use on Premises Prohibited

Compassion centers shall not permit the use of marijuana or marijuana products on the premises of the compassion center, including any parking areas that are designated for compassion center clients or otherwise within the control of the compassion center.

3. Transportation of Medical Marijuana to and from a Compassion Center; Home Delivery Transportation

- a. "Authorized transports" of marijuana and marijuana products to and from compassion centers are limited to approved patient home delivery plans under Section 1.4(J)(3)(e) and transports to and from licensed cultivators for transactions authorized under Section 1.4(C)(2).
- b. "Registered/licensed facility" shall refer to a either a registered compassion center or licensed cultivator that is party to an "authorized transport," as the context requires.
- c. "Authorized transport vehicle" means a vehicle meeting the following criteria:
 - (1) The vehicle bears no markings that indicate that the vehicle is being used to transport marijuana nor indicates the name of the registered/licensed facility.
 - (2) The vehicle is equipped with a global positioning system monitoring device that is monitored by the originating registered/licensed facility during an authorized transport.
 - (3) The vehicle has a locked storage compartment within which the marijuana and marijuana product being transported is secured.
- d. "Detailed transport manifest" refers to a manifest which DBR may require be generated through and/or maintained in the Medical Marijuana Program Tracking System and that shall include the following minimum information:
 - (1) Departure date and approximate time of departure.
 - (2) Names, location addresses, and registration/license numbers of the originating and receiving registered/licensed facilities.
 - (3) If for transport to a registered qualifying patient pursuant to an approved patient home delivery plan, the patient registry identification card number and any such other information pursuant to approved delivery plan.
 - (4) Product name or descriptions and quantities (by weight or unit) of each product to be delivered to each specific destination location(s).
 - (5) Arrival date and approximate time of arrival.

- (6) Delivery vehicle make and model and license plate number.
- (7) Names, registry identification card numbers, and signatures of the delivery persons.
- e. If a compassion center proposes to offer home delivery service of usable marijuana or marijuana products to a Rhode Island registered patient's residence, it shall submit a comprehensive proposed patient home delivery plan to DBR for its review and pre-approval, detailing how the program will assure compliance with the Act, the DBR Regulations, and the DOH Regulations. The patient home delivery plan must include satisfactory cardholder verification procedures to ensure delivery is made to requested qualifying patients and in authorized amounts. The patient home delivery plan must include how the compassion center will comply with point of sale tracking requirements for patient home delivery transactions. Patient home delivery services, if approved, are subject to the requirement that payment must be made prior to or within one (1) business day of delivery to the patient.
- f. The originating registered/licensed facility shall ensure that all delivery times and routes are randomized.
- g. Authorized transports may only be made by cardholders affiliated with the particular registered/licensed facility that is the source or recipient party to an authorized transaction. Authorized transports must be in compliance with one of the following minimum requirements: (i) an authorized transport may use a single authorized transport vehicle so long as it is operated/occupied by a minimum of two authorized transport cardholders and is subject to the requirement that at least one such cardholder shall remain in the authorized transport vehicle at all times; or (ii) an authorized transport may use two or more authorized transport vehicles that are operated/occupied by authorized transport cardholders provided the authorized transport vehicles are traveling together at all times during the authorized transport.
- h. During all authorized transports, the delivery persons must have on their persons their compassion center or licensed cultivator registry identification cards and the detailed transport manifest.
- i. Any authorized transport vehicle carrying marijuana and marijuana products shall travel directly from the originating registered/licensed facility to the receiving registered/licensed facility. Any compassion center authorized transport vehicle carrying marijuana and marijuana products to patients pursuant to an approved patient

home delivery plan shall only stop at the patient addresses listed on the detailed transport manifests. In case of an emergency stop, a detailed written account must be maintained describing the reason for the event, the duration, the location, any activities occurring during the stop, and any personnel exiting the vehicle during the stop.

- j. Authorized transports shall be conducted in such a manner as to ensure that marijuana and marijuana products are secured and safe at all times during transport, which includes, but is not limited to, the requirements that marijuana is not visible from outside the authorized transport vehicle at that any ingestible marijuana products that are perishable are adequately refrigerated, if necessary.
- k. Prior to leaving the originating registered/licensed facility for an authorized transport to another registered/licensed facility, the originating registered/licensed facility must weigh, inventory, and account for on video all marijuana and marijuana product to be transported.
- I. For authorized transports to and from a licensed cultivator, the transport manifest shall be accompanied by a copy of any contract/purchase order for which the transport is being made and documentation of the actual payment date, if prepaid.
- m. The detailed transport manifest shall be prepared by the originating registered/licensed facility and transmitted in advance to the receiving facility. Both facilities shall retain copies of detailed transport manifests as part of their record retention responsibilities.
- n. Within eight (8) hours of after arrival at the destination registered/licensed facility, the receiving party shall re-weigh, re-inventory, and account on video for all marijuana and marijuana product transported.
- o. Both the originating and recipient registered/licensed facilities shall timely adjust their records to reflect in its records the completed authorized transport of marijuana, including logging such information in the Medical Marijuana Program Tracking System. All records and entries in the Medical Marijuana Program Tracking System shall be easily reconciled, by product name and quantity, with the applicable detailed transport manifest. Any unusual discrepancies in the quantity described in the detailed transport manifest and the quantities received shall be reported to DBR and municipal and/or state law enforcement within (24) hours.

- Any vehicle accidents, diversions, or losses during authorized transports of marijuana shall be reported to DBR and law enforcement as an "emergency event" pursuant to Section 1.4(G)(7).
- q. Transportation to or from a third party testing provider shall be in accordance with the DOH Testing Regulations, once adopted.
- 4. Manufacturing and Extraction
 - a. Any manufacturing method using a solvent extraction process must be approved by DBR. If the manufacturing method uses a flammable/combustible material or heat source, the method must also be approved by the State Fire Marshall and/or local fire department.
 - b. Only registered compassion center employees and agents may manufacture marijuana products on the premises. A registered volunteer may do so only as part of educational programming under the direct supervision of a registered compassion center employee.
 - c. The compassion center must maintain written standard operating procedures for each manufacturing process, including step-by-step instructions.
 - d. The compassion center must ensure that for each manufacturing process, all safety and sanitary equipment appropriate for that manufacturing process, including any personal protective equipment, is provided to any authorized compassion center cardholder who will be involved in that manufacturing process.
 - e. All medical marijuana product manufacturing areas must be adequately lit during manufacturing, cleaning, or other use.
 - f. All work surfaces on which medical marijuana products are manufactured and the walls and floors in the areas in which such products are manufactured shall be non-porous, non-absorbent, and easily cleanable.
 - g. No eating or smoking shall be permitted in the manufacturing area.
 - h. The compassion center must provide a training manual and instructional training on each manufacturing process to any authorized compassion center cardholder who will be involved in that manufacturing process.
- 5. Required Patient Outreach Activities

The compassion center's outreach activities to registered qualifying patients, registered primary caregivers, and authorized purchasers shall, at a minimum, include:

- a. Providing each new registered qualifying patient who visits the compassion center with a frequently asked questions sheet that explains the limitations on the right to use medical marijuana under state law in accordance with R.I. Gen. Laws § 21-28.6-12(f)(9).
- b. Providing a list of ingestion options for usable marijuana.
- c. Providing applicable usage techniques and any corresponding safety information to registered qualifying patients.
- d. Communicating potential side effects.
- e. Upon the request of DOH and/or DBR, e-mailing or otherwise disseminating information to compassion center clients regarding changes in the medical marijuana program.
- 6. Required Employee, Agent, and Volunteer Training.

In accordance with R.I. Gen. Laws § 21-28.6-12(f)(14), each compassion center shall develop, implement and maintain on the premises an on-site training curriculum, or enter into contractual relationships with outside resources capable of meeting employee, agent and volunteer training needs. Each employee, agent or volunteer, at the time of his or her initial appointment and every year thereafter, shall receive, at a minimum, training in the following:

- a. Professional conduct, ethics, and state and federal laws regarding patient confidentiality.
- b. Informational developments in the field of medical use of marijuana.
- c. The proper use of security measures and controls that have been adopted.
- d. Training on use of the Medical Marijuana Program Tracking System and any other tracking systems used by the compassion center for persons responsible for using the system.
- e. Specific procedural instructions for responding to an emergency, including robbery or violent accident.
- 7. Minimum Sanitation and Workplace Safety Conditions

- a. The compassion center shall be maintained in a safe, sanitary, and clean manner, with all operations in the cultivation, receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of medical marijuana and marijuana products conducted in accordance with adequate sanitation principles, as further detailed below.
- b. The facility must meet the following minimum specifications:
 - (1) Adequate supply of potable hot and cold water.
 - (2) Non-porous, non-absorbent and easily cleanable floors, walls, and ceilings in areas where marijuana is cultivated, manufactured, and stored.
 - (3) Lavatory facilities that are readily-accessible to employees and that comply with the Rhode Island State Plumbing Code Regulation.
 - (4) Adequate hand-washing area(s): hand washing sinks with effective hand-cleaning and sanitizing preparations (such as soap dispensers) and disposable towels or an air dryer for hands.
 - (5) Adequate screening or other protection against the entry of pests and environmental contaminants.
- c. All mechanical and electrical equipment shall be maintained in a safe operating condition.
- d. Waste disposal equipment shall be adequate and removal schedules timely so as to minimize the risk of contamination to medical marijuana and marijuana products, including the risk of the waste becoming an attractant, harborage, or breeding place for pests.
- e. All waste (including all liquid, chemical, hazardous, pesticide, manufacturing solvent and chemical waste) must be stored, secured, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other legal requirements. Specific instructions for safe destruction of any marijuana required to be destroyed and proper disposal of medical marijuana waste are provided in Section 1.4(J)(10).
- f. Floors, walls, and ceilings shall be kept clean and in good repair, free from dust, debris, mold, mildew, and other contaminants and potentially hazardous materials.

- g. Lavatory facilities and hand washing areas shall be kept clean and sanitary and in working condition at all times.
- h. Toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of medical marijuana and marijuana products and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance.
- i. The compassion center shall comply with all relevant statutes, regulations, and requirements administered by the Federal Occupational Safety and Health Administration (OSHA), including but not necessarily limited to standards for toxic and flammable compounds and air contaminants.
- j. All persons working in direct contact with medical marijuana and marijuana products shall conform to hygienic practices while on duty, including but not limited to maintaining adequate personal cleanliness and washing hands thoroughly in an adequate handwashing area before starting work and at any other time when the hands may have become soiled or contaminated.
- k. Any person whose medical condition, as determined by medical examination or as observed by a supervisor, poses or reasonably appears to pose a risk of contamination of medical marijuana and/or medical marijuana products shall be excluded from medical marijuana operations until the condition is cleared. Medical conditions posing a risk of contamination include but are not necessarily limited to open lesions, including boils, sores, or infected wounds, or any other abnormal source of microbial infection.
- I. The compassion center shall not permit the entry of any animal into the premises. Service animals (as defined in the Americans with Disabilities Act) are exempted from this prohibition.
- m. In addition to the safety and sanitary equipment including personal protective equipment that the compassion center is required to furnish its employees involved in marijuana manufacturing and extraction pursuant to Section 1.4(J)(4)(D) of these regulations, the compassion center must also furnish its employees with proper safety equipment for other types of work assigned as part of the compassion center operations.
- 8. Odor Control and Mitigation

- a. Cultivation area(s) shall have ventilation and filtration systems installed that prevent medical marijuana plant odors from exiting the interior of the structure to an extent that would significantly alter the environmental odor outside, while addressing the potential for mold.
- b. The ventilation and filtration system, along with any plumbing improvements, shall be installed in compliance with all applicable codes and ordinances, including obtaining any necessary permits, and inspected by the municipality.
- c. Measures to assure compliance with this section shall be documented in an odor control and mitigation plan acceptable to DBR.
- 9. Pesticide Use and Records
 - a. The cultivation process shall use best practices to limit contamination of medical marijuana and marijuana products, including but not limited to mold, mildew, fungus, bacterial diseases, rot, pests, pesticides, and any other contaminant identified as posing potential harm.
 - b. The use of pesticides on marijuana plants in Rhode Island by registered compassion centers will not be considered a violation of these regulations provided that the product must satisfy all of the following criteria:
 - (1) The product must be a "minimum risk pesticide" under 40 C.F.R. § 152.25(f), as the same may be amended from time to time.
 - (2) The product must be labelled for use on "all plants," "other plants," bedding plants, unspecified plants, or unspecified crops.
 - (3) The label must not prohibit indoor or greenhouse use, as applicable.
 - (4) All active ingredients must be eligible for food use as determined by the federal Environmental Protection Agency (EPA). See EPA's Active Ingredients Eligible for Minimum Risk Pesticide Products (last updated December 2015), as the same may be updated and/or amended from time to time. https://www.epa.gov/sites/production/files/2015-12/documents/minrisk-active-ingredients-tolerances-2015-12-15.pdf.

- (5) All inert/other ingredients must be eligible for food use. See EPA's Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products (last updated December 2015), as the same may be updated and/or amended from time to time. See https://www.epa.gov/sites/production/files/2016-07/documents/section25b_inerts.pdf.
- (6) The product must be a currently registered pesticide product eligible for sale in Rhode Island as determined by the Rhode Island Department of Environmental Management. To verify a product's registration in Rhode Island, please consult the online National Pesticide Information Retrieval System through the Center for Environmental and Regulatory Information Systems. http://npirspublic.ceris.purdue.edu/state/state_menu.aspx?st ate=RI.
- (7) The product must be used in accordance with any and all use instructions on the label.
- c. No application of pesticides shall be made after the vegetative stage of growth of the cannabis plant. The vegetative stage of growth should be determined by visual buds or flower or by proxy of the plant receiving less than eighteen (18) hours of light in a twenty-four (24) hour period.
- d. Pesticides shall be identified, held, stored and disposed of in a manner that protects against contamination of medical marijuana and marijuana products and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance.
- e. As a DBR record-keeping requirement, compassion centers must keep detailed records of any pesticide products used and application regiments, including video recording during pesticide applications which must cease if there is a failure or disruption of the video surveillance system. This record-keeping requirement is independent of that required of commercial pesticide applicators by the Rhode Island Department of Environmental Management, and is intended to apply in addition to that requirement, where relevant.
- 10. Safe Disposal of Medical Marijuana Waste and Safe Destruction of Usable Medical Marijuana
 - a. Marijuana and marijuana product waste (including all liquid, chemical, hazardous, pesticide, manufacturing solvent and chemical waste containing any traces of marijuana) must be stored,

secured, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other legal requirements.

- b. Prior to disposal, marijuana and marijuana product waste must be made unusable and any marijuana plant material made indistinguishable from other plant material. This may be accomplished by grinding and incorporating the marijuana plant waste with other non-consumable solid waste or other ground materials so the resulting mixture is at least fifty percent nonmarijuana waste by volume. Other methods to render marijuana waste unusable must be approved by DBR before implementing. Marijuana waste rendered unusable following an approved method may be delivered to a licensed solid waste disposal facility in Rhode Island for final disposition or disposed of in an alternative manner approved by DBR.
- c. Destruction of marijuana and marijuana materials other than waste generated in the regular course of processing and/or manufacturing (such as destruction of whole plants, wet, or usable marijuana that are found to be in excess of statutory possession limits or destruction of a contaminated batch of medical marijuana product) shall be in a manner acceptable to DBR, which may include consultation with law enforcement.
- d. Destruction of marijuana and marijuana materials upon revocation or abandonment of the license shall be specifically governed by DBR order or agreement and/or coordinated efforts with law enforcement.
- e. Compassion centers must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana and marijuana products (including any waste material produced through the trimming or pruning of a marijuana plant prior to harvest). DBR may mandate storage of any such records or summaries of such records to be through the Medical Marijuana Program Tracking System or any other electronic system DBR designates.
- K. Inspections and Audits; Enforcement Actions
 - 1. Compassion centers are subject to reasonable inspection by DBR and DOH. DBR and DOH and their authorized representatives have authority to enter a compassion center premises at reasonable times and to inspect in a reasonable manner, the premises and all equipment, materials, containers, and other things therein, including without limitation all

records, files, financials, sales, transport, pricing and employee data, research, papers, processes, controls and to inventory any stock of marijuana, labels, containers, paraphernalia and other materials and products. During any inspection, DBR and DOH may review the compassion center's confidential records, including its dispensing records, which shall track transactions according to identifying information for the patient, primary caregiver, and/or authorized purchaser. Dispensing records for patient cardholders shall be tracked by registry identification numbers only to protect their confidentiality. See R.I. Gen. Laws § 21-28.6-12(e).

- 2. DBR may review and audit the books and records of compassion centers to ascertain compliance with the Act, the DBR Regulations, and/or the DOH Regulations, including continued satisfaction of the statutory criteria considered in granting a compassion center license. The compassion center must make such books and records immediately available for reviewing and copying by DBR and DOH. DBR may retain an independent auditor to act as its agent for purposes of this section, the cost of which shall be borne by the compassion center.
- 3. Nothing herein shall be interpreted to limit the real time access of DBR and DOH to information stored in the Medical Marijuana Program Tracking System consistent with the Act.
- 4. Pursuant to R.I. Gen. Laws § 21-28.6-12(d)(5) and § 21-28.6-12(b)(1), a compassion center's registration certificate may be suspended/revoked if the compassion center is in violation of the laws of Rhode Island, including the Act, DBR Regulations, or DOH Regulations.
- 5. If a principal officer, board member, employee, agent, or volunteer affiliated with a compassion center violates the Act, the DBR Regulations, and/or the DOH Regulations when acting in their capacity as a principal officer, board member, employee, agent, or volunteer of the compassion center, the compassion center may be subject to suspension/revocation for failure to exercise adequate supervision.

1.5 Licensed Cultivator Application and Licensing Provisions

A. Authority

R.I. Gen. Laws § 21-28.6-16(b)(1) authorizes DBR to promulgate regulations regarding the form and content of licensing and renewal applications for licensed cultivators.

B. Licensed Cultivator Application and License Timeline

- 1. Licensed cultivator applications may be submitted to DBR for consideration through April 30, 2017. The application period will be re-opened each subsequent year during the months of January, February, and March. DBR reserves the right to modify the application periods based on patient and program need. DBR also reserves the right to issue regulations limiting the number and/or classes of new licenses available for application based on the projected needs of the Rhode Island Medical Marijuana Program population. See R.I. Gen. Laws § 21-28.6-16 (location and possession restrictions, regulation of licensing and oversight requirements).
- 2. Upon notification of approval of an application from DBR, the approved applicant must take reasonable and documented efforts to complete the prerequisites for issuance of the license which steps are detailed in Section 1.5(E). If such efforts take longer than nine (9) months, the approved applicant must show good cause to DBR why additional time should be granted and the application approval should not be rescinded.
- 3. Once the license has been issued, the licensed cultivator must take reasonable and documented efforts to launch licensed cultivator activities, which for purposes of this paragraph shall mean actual medical marijuana cultivation, processing, packaging, manufacturing, and/or other medical marijuana activities requiring a cultivator license pursuant to the Act. If such efforts take longer than six (6) months, the licensed cultivator must show good cause to DBR why the license should not be revoked for non-use.
- C. Classes of Cultivator Licenses
 - 1. Cultivator licenses shall be divided into the following categories:

License Class	Size of Facility*
Micro-license	0 – 2,500 sq. ft.
Class A	0 – 5000 sg. ft.
Class B	5,001 – 10,000 sq. ft.
Class C	10,001 – 15,000 sq. ft.
Class D	15,001 – 20,000 sq. ft.

2. For facilities over 20,000 sq. ft., please contact DBR prior to submitting the application.

- 3. For the period of one (1) year from the effective date of these regulations, only Micro-license, Class A, and Class B applications will be accepted. An applicant who is considering eventually applying to operate a larger facility may detail any such plan on the application.
- 4. Facility size shall be determined as a total of any area where marijuana will be cultivated, stored, processed, packaged, and/or manufactured.
- 5. An authorized officer of the applicant shall certify the square footage calculation.
- D. Application for Cultivator License
 - 1. DBR will evaluate applicants based upon the information provided by applicants on the application forms/submissions and otherwise obtained during the application process.
 - 2. Each application for a licensed cultivator shall be on such forms and through such submission mechanisms as designated by DBR.
 - 3. All categories of cultivator applications shall be accompanied by a nonrefundable application fee of five-thousand dollars (\$5000).
 - 4. Pursuant to R.I. Gen. Laws § 21-28.6-16(i), cultivators shall only be licensed at a single location registered with DBR and RISP, must abide by all local ordinances, including zoning ordinances, and may be subject to any additional location restrictions promulgated by DBR. With respect to local zoning, medical marijuana cultivation may fall within various zoning use categories including without limitation the following zoning use categories: agricultural uses (such as greenhouse and nursery), industrial uses (light and general), manufacturing and processing (such as factory) or specific medical marijuana related use categories. Whether medical marijuana cultivation is a permitted use, prohibited use or allowed by special use permit within these or any other use categories is determined by local zoning authorities. Furthermore, in accordance with R.I. Gen. Laws § 21-28.6-16(i):
 - a. Only one cultivator license will be issued per structural building.
 - b. The application must contain the following minimum information:
 - (1) The proposed physical location of the licensed cultivator (by plat and lot number, mailing address, etc.), if a precise location has been determined. If a precise physical location has not been determined, a description of the general location(s) where it may be sited, if approved, and the expected schedule for purchasing or leasing said location(s).

- (2) Approximate calculation of the square footage of the proposed facility.
- (3) Evidence of the location's compliance or preliminary determination of compatibility with the local zoning laws.
- (4) Evidence that the physical location is not located within one thousand feet (1,000') of the property line of a preexisting public or private school. For the purposes of this paragraph, "private school" shall be deemed to refer to any nonpublic institution of elementary or secondary (K-12th Grade) education, accredited or recognized as a private school by the department of elementary and secondary education or the school committee of the city or town having jurisdiction over private schools. For purposes of this paragraph, the 1000 foot distance shall be measured from the secured cultivator premises, which shall include allotted outdoor areas (such as parking and loading areas), to the property line of the school, which shall include the school building, land, and appurtenances.
- (5) A draft diagram of the proposed facility, including where within the facility the medical marijuana will be cultivated, stored, processed, packaged, and/or manufactured, and where security alarms and cameras and surveillance recording storage will be located, and showing the location of the facility relative to streets and other public areas.
- (6) A description of objective parameters (such as distances from streets and public areas) and/or proposed measures (such as black-out window shades) that ensure that marijuana at the premises shall not be visible from the street or other public areas.
- (7) Evidence of either ownership of property or agreement by owner of property to allow the operation of a licensed cultivator on the property, if property has already been purchased or leased at the time of the application.
- 5. The application shall also provide the following minimum information:
 - The applicant's legal and any d/b/a name(s), certificate of incorporation or organization in Rhode Island or certificate of authority to transact business in Rhode Island, articles of incorporation or organization, and bylaws or operating agreement.

- b. A business plan, including scope of activities, budget and resource narratives, and timeline for initiating operations.
- c. The legal name, current address, and date of birth of each officer and director or member/manager of the applicant.
- d. A list of all persons or business entities (legal names and current addresses) that currently have or are expected to have direct or indirect authority over the management or policies of the applicant.
- e. If the applicant proposes to have a management agreement in place, it shall also include a copy of the management agreement or management agreement proposal and a list of persons who have any ownership interest or operational control over the management company.
- f. A list of all persons or business entities (legal names and current addresses) having any ownership interest in the applicant entity, whether direct or indirect.
- g. If the cultivator premises and/or other operational assets will be owned or leased by a person or entity other than the applicant, the legal name and current address of any such person or entity and a list of all persons or entities (legal names and current addresses) having any ownership in such entity, whether direct or indirect.
- h. The legal names and current addresses of all creditors holding a security interest in the premises and/or other assets to be used in the cultivator operations, if any.
- i. Tax Affidavit in accordance with R.I. Gen. Laws § 5-76-1 et seq.
- j. All other information required by DBR as described in the application form, including for example experience and regulatory history of the applicant and its key personnel.
- 6. Only applications which DBR has determined to be complete (i.e., adequately address all application requirements above) shall be eligible for review. An applicant who submits an incomplete application shall receive written notification from DBR regarding the specific deficiencies and shall be allowed to resubmit additional material to address these deficiencies within a reasonable timeframe without additional application fees.
- E. Prerequisites to Issuance of Cultivator License and Commencement of Operations

- 1. If an applicant seeking to operate as a licensed cultivator is notified that its application has been approved by DBR, it shall complete the below steps before a cultivator license will be issued.
- 2. Annual Cultivator License Fees

The annual license fee shall be determined by the below table and must be paid in full before a license will be issued.

License Class	Annual License Fee
Micro-license	\$5,000.00
Class A	\$20,000.00
Class B	\$35,000.00
Class C	\$50,000.00
Class D	\$80,000.00

3. Final Information and Documentation to be Supplied

The applicant must provide any updates to previously submitted application information and the following additional items to DBR:

- a. A sufficient description of the final physical location of the cultivator premises (by plat and lot number, mailing address, etc.).
- b. Evidence of complete compliance of the facility with the local zoning laws in the form of a letter from an authorized zoning official of the municipality and certification by an authorized officer of the applicant as to compliance with any other applicable local ordinances. See Section 1.5(D)(4).
- c. Unless already provided at time of initial application, evidence that the physical location for the cultivator premises is not located within one thousand feet (1,000') of the property line of a preexisting public or private school. See Section 1.5(D)(4)(b)(4),
- d. A current Certificate of Occupancy (or equivalent document) to demonstrate compliance of the cultivator facility with the relevant provisions of Chapters 28.1 and 27.3 of Title 23 of the R.I. General Laws [Fire Safety Code and State Building Code, respectively].

- e. Evidence of either ownership of property or agreement by owner of property to allow the operation of a licensed cultivator on the property.
- f. A final diagram of the facility, including where marijuana will be cultivated, stored, processed, packaged, and manufactured, and where security alarms and cameras and surveillance recording storage will be located.
- g. The legal name, current address, and date of birth of any person who will be an employee or agent of the cultivator at its inception.
- h. Evidence of completion of divestiture plan pursuant to Section 1.5(E)(5)(e) and other individual relinquishment requirements pursuant to Section 1.5(E)(5)(f).
- 4. DBR Pre-License Inspection

Before a cultivator license will be issued, a DBR inspection is required. Approved applicants should contact DBR to coordinate said inspection. Nothing in this paragraph should be construed as limiting inspections at an earlier time in addition to the final pre-license inspection.

- 5. Divestiture of Prohibited Material Financial Interest and Control
 - A licensed cultivator and "key persons" thereof may not have any a. "material financial interest or control" in another licensed cultivator, a compassion center, or a licensed cooperative cultivation or vice versa. See R.I. Gen. Laws § 21-28.6-12(c)(1)(iii)(limiting a compassion center to one additional location to cultivate its marijuana); R.I. Gen. Laws § 21-28.6-12(b)(1)(ii)(DBR minimum oversight over compassion centers); R.I. Gen. Laws § 21-28.6-16(i)(cultivator to be licensed at one location only); R.I. Gen. Laws § 21-28.6-16(b)(2)(DBR minimum oversight over cultivators); R.I. Gen. Laws § 21-28.6-3(4)(i) and R.I. Gen. Laws § 21-28.6-3(12)(separately defining "compassion center" and "licensed cultivator," respectively); R.I. Gen. Laws § 21-28.6-14(a)(10)(DBR authority to regulate operations of licensed cooperative cultivations); R.I. Gen. Laws § 21-28.6-4(q)(qualifying patient and primary caregiver cardholders may only grow at one location).
 - b. R.I. Gen. Laws § 21-28.6-16(f) authorizes regulations regarding testing of medical marijuana and marijuana product cultivated and/or manufactured by licensed cultivators, which will include ensuring the independence of third party testing providers. Accordingly, a licensed cultivator may not have any material

financial interest or control in a Rhode Island DOH-approved third party testing provider and vice versa.

- c. "Material financial interest or control" shall mean: i) any ownership interest, regardless of the size of the holding, and including any ownership interest through a subsidiary or affiliate; ii) trusteeship, mortgage, guarantor, endorser or surety relationship, or loan relationship, except that loan relationship for the purposes of this definition shall exclude accounts payable and accounts receivable on account of a medical marijuana purchase order; iii) any other beneficial financial interest such that the holder bears the risk of loss (other than as an insurer) or has an opportunity to gain profit from the operation or sale of the regulated medical marijuana business; iv) operational control including but not limited to interlocking directors or officers or through a management agreement.
- d. "Key persons" shall mean officers, directors, LLC managers/members and any persons with managing or operational control.
- e. Therefore, if a licensed cultivator application is approved and any prohibited material financial interest or control has been identified by DBR or is otherwise known to the licensed cultivator applicant, such interest or control must be divested prior to issuance of the cultivator license. The plan of divestiture shall be filed with DBR.
- f. If applicable, before issuance of the cultivator license, the cultivator applicant entity and its officers, directors or managers/members, and any other person with an ownership or controlling interest must relinquish any caregiver registrations or cooperative cultivation licenses held in order to comply with R.I. Gen. Laws § 21-28.6-16(a).
- g. The duty to divest prohibited material financial interests and control is a continuing obligation of licensure.
- 6. Registry Identification Card Requirements

Before issuance of the cultivator license, all officers, directors or managers/members, employees, and agents must apply for a registry identification card and submit to a national criminal background check as provided in Section 1.6. Such individuals may be hired, appointed, or retained prior to receiving a registry identification card, but may not begin engagement in medical marijuana cultivation, storage, processing, packaging, manufacturing, transport, or other medical marijuana activities requiring a licensed cultivator license pursuant to the Act until receipt of the card.

F. DBR Post-Licensure Inspection of Operations and Inventory

After the cultivator license is issued, the licensed cultivator shall notify DBR when it obtains inventory and commences operations. DBR may conduct a post-licensure inspection upon this commencement of operations, including but not limited to inspection for compliance of medical marijuana and marijuana product inventory with the tagging and tracking requirements set forth in Section 1.7(D). Nothing in this paragraph shall be construed to limit DBR's general inspection powers as delineated in Section 1.7(J).

- G. Changes in Location, Floor Plan, Ownership and Control of Licensed Cultivator; Continuing Duty to Update Application Information; Discontinuation of or Failure to Launch Licensed Cultivator Activities
 - 1. A cultivator license shall not be assigned or otherwise transferred to other persons or locations, unless pre-approved in accordance with the below paragraphs.
 - 2. A licensed cultivator shall provide DBR with a written notice of any change described below at least sixty (60) calendar days prior to the proposed effective date of the change:
 - a. A change in ownership of the licensed cultivator.
 - b. Change in the membership of a board of directors, board of trustees, or managers/members.
 - c. Change in corporate officer.
 - d. Merger, dissolution, or entity conversion.
 - e. Entering into a management agreement, changing management companies, and/or material changes to an existing management agreement.
 - f. Changes in the approved licensed cultivator premises.
 - g. Change to approved premises floor plan.
 - h. Proposed premises expansion.
 - 3. Unless the licensed cultivator provides timely notification of the above changes and receives prior DBR approval or waiver of the requirement of prior notice and approval (for example a non-material change in ownership

or emergency situation as determined by DBR), the license shall be void and returned to DBR.

- 4. As to any proposed change of ownership or to a management agreement that will effect a change of majority control and/or decision-making authority with respect to the operation of the licensed cultivator or as to any proposed change in an approved licensed cultivator premises location, DBR may require the licensed cultivator to follow the process for a new application, which may include a new application fee. Additionally, any increase in the size of the facility that causes the facility to be reclassified based on the license fee structure set forth in Section 1.5(E)(2) shall require payment of the difference between the paid fee and the fee applicable to the new classification of the facility. DBR, in its sole discretion, may prorate the fee increase or may offer a rebate for a size decrease.
- 5. For updates in information other than the categories requiring sixty (60) calendar days prior notice, the licensed cultivator has a continuing obligation to update, amend and/or correct any information requested and/or submitted in the application process within ten (10) business days after any change in the information submitted and/or any material change in circumstances related to the application. This includes timely notification and divestiture if a prohibited interest as delineated in Section 1.5(E)(5) is acquired by operation of law.
- 6. If the licensed cultivator proposes to alter the final floor plan previously submitted and approved, the licensed cultivator must first submit a renovation plan for DBR approval sixty (60) calendar days prior to commencement of construction. The renovation plan must specifically address quality control procedures for the protection of medical marijuana and medical marijuana products from any contamination during the construction process and further address any other criteria DBR requires.
- 7. The cultivator license shall be void and returned to DBR if the licensed cultivator discontinues its operation, unless the discontinuance is on a temporary basis approved by DBR.
- H. Annual Renewal
 - 1. Cultivator licenses shall be issued for one year terms.
 - 2. Annual renewals shall be submitted on such forms and include such information as prescribed by DBR.
 - 3. An annual inspection shall be part of the annual renewal process.

1.6 Licensed Cultivator Cardholder Registry Identification Card Provisions

- A. Cultivator Cardholder Definitions
 - 1. "Licensed cultivator cardholder" includes all officers, directors or managers/members, employees, and agents who have been issued a registry identification for their association with the licensed cultivator.
 - 2. "Agent" of a licensed cultivator shall include, but not be limited to, "testing agents."
 - 3. "Testing agent" shall mean an employee of an approved third party testing provider who performs independent testing of medical marijuana and/or marijuana products of the licensed cultivator in accordance with the DOH Testing Regulations, once adopted.
- B. Registry Identification Card Requirement, Eligibility, Annual Fee and Application
 - 1. All officers, directors or managers/members, employees, and agents of the licensed cultivator must apply for cultivator registry identification cards.
 - 2. Each licensed cultivator shall maintain a current list of all licensed cultivator cardholders associated with the licensed cultivator.
 - 3. Licensed cultivator cardholders shall be at least twenty-one (21) years old.
 - 4. There shall be a one hundred dollars (\$100.00) non-returnable, nonrefundable annual fee for a licensed cultivator registry identification card, including each initial application and subsequent annual renewal.
 - 5. Applications pursuant to this section shall be on such forms and through such submission mechanisms as directed by DBR.
- C. Criminal Background Checks
 - Pursuant to R.I. Gen. Laws § 21-28.6-16(k), the cultivator applicant is subject to a national criminal background check. This shall include all officers, directors or managers/members, employees, and agents of the licensed cultivator (hereinafter also referred to in this section as "applicants").
 - 2. Pursuant to R.I. Gen. Laws § 21-28.6-16(k)(2), disqualifying information is defined as a felony drug offense conviction or a plea of nolo contendere for a felony drug offense with a sentence of probation.

- 3. Pursuant to R.I. Gen. Laws § 21-28.6-16(k), the national criminal identification records check shall include fingerprints submitted to the Federal Bureau of Investigation. Application for said records check may be made to the Bureau of Criminal Identification of the Department of Attorney General, RISP, or the local police department.
- 4. Pursuant to R.I. Gen. Laws § 21-28.6-16(k) and § 21-28.6-16(k)(2), upon the discovery of any disqualifying information, the office that conducted the records check (the Bureau of Criminal Identification of the Department of Attorney General, RISP, or the local police department) shall issue a letter to the applicant disqualifying the applicant and informing the applicant of the nature of the disqualifying information.
- 5. Pursuant to R.I. Gen. Laws § 21-28.6-16(k) and § 21-28.6-16(k)(2), upon discovery of any disqualifying information, the office that conducted the records check (the Bureau of Criminal Identification of the Department of Attorney General, RISP, or the local police department) shall notify DBR, in writing of the fact that disqualifying information has been discovered thus disqualifying the applicant.
- 6. Pursuant to R.I. Gen. Laws § 21-28.6-16(k)(1), in those situations in which no felony drug offense conviction or plea of nolo contendere for a felony drug offense with probation has been found, the office that conducted the records check (the Bureau of Criminal Identification of the Department of Attorney General, RISP, or the local police department) shall inform the applicant and DBR, in writing, of this fact.
- 7. Pursuant to R.I. Gen. Laws § 21-28.6-16(k)(2), the applicant shall be responsible for any expense associated with the national criminal background check with fingerprints.
- 8. DBR will not require a person subject to a national criminal background check under this subsection to undergo such a check more than once every two (2) years, unless a more frequent time frame is mandated and/or agreed to as part of a license disciplinary action.
- D. Issuance of the Cultivator Cardholder Registry Identification Card
 - 1. Once the licensed cultivator cardholder application is approved by DBR, each approved officer, director or manager/member, employee, or agent of the licensed cultivator is responsible for getting a registry identification card from DOH.
 - 2. The registry identification card shall contain:
 - a. The name, address and date of birth of the person.

- b. The legal name of the licensed cultivator that the individual is affiliated with.
- c. The category of the person's affiliation: officer, director or manager/member, employee, or agent.
- d. The date of issuance and expiration date of the registry identification card.
- e. A random registry identification number.
- f. A photograph.
- E. Expiration and Renewal of Cultivator Cardholder Registry Identification Cards

Cultivator cardholder registry identification cards shall expire one year after issuance. Renewal applications shall be on such forms and through such submission mechanisms as directed by DBR.

- F. Change in Name or Address; Lost/Stolen Cards
 - In accordance with R.I. Gen. Laws § 21-28.6-16(I)(1), a licensed cultivator cardholder shall notify DBR of any change in his or her name or address within ten (10) business days of such change. A licensed cultivator cardholder who fails to notify DBR of any of these changes may be subject to a fine up to one hundred fifty dollars (\$150).
 - 2. In accordance with R.I. Gen. Laws § 21-28.6-16(I)(2), changes in name and/or address require the licensed cultivator cardholder to remit a ten dollar (\$10.00) fee to DBR. Upon receipt of the notice and fee, DBR will prompt DOH to issue an updated registry identification card. The licensed cultivator cardholder shall be responsible for getting the updated registry identification card from DOH.
 - 3. In accordance with R.I. Gen. Laws § 21-28.6-16(I)(3),if a licensed cultivator cardholder loses his or her registry identification card (which would particularly include a card suspected to be stolen), he or she shall notify DBR and submit a ten dollar (\$10.00) fee within ten (10) business days of losing the registry identification card. Upon receipt of the notice and fee, DBR will prompt DOH to issue a replacement registry identification card. The licensed cultivator cardholder shall be responsible for getting the replacement registry identification card from DOH.
- G. Duty to Notify DBR of Disqualifying Criminal Information

In accordance with R.I. Gen. Laws § 21-28.6-16(I)(3), a licensed cultivator cardholder shall notify DBR of any disqualifying criminal convictions as defined in

§ 21-28.6-16(k)(2). Such notification must be made in writing within ten (10) business days.

- H. Termination of Cultivator Cardholder Registry Identification Card.
 - If a licensed cultivator cardholder violates R.I. Gen. Laws § 21-28.6-16 (entitled "Licensed Cultivator") or any portion of the DBR Regulations or DOH Regulations which regulate licensed cultivators and licensed cultivator cardholders, his or her registry identification card may be suspended/revoked or subject to a fine as determined by DBR pursuant to § 21-28.6-16(e).
 - 2. When a licensed cultivator cardholder ceases work with a licensed cultivator, whether voluntarily or involuntarily or upon the licensed cultivator closing, his or her registry identification card shall be null and void. In that situation, the licensed cultivator and/or the licensed cultivator cardholder shall notify DBR and the registry identification card shall be returned to DBR within ten (10) business days. No hearing shall be necessary to render the card null and void in this situation. In addition to being null and void, a penalty of up to one hundred and fifty dollars (\$150) may be assessed for failure to return the card within the ten (10) day period.

1.7 Licensed Cultivator Operational Provisions

A. State Medical Marijuana Program Tracking System

Upon direction by the DBR, each licensed cultivator shall be required to utilize the state approved Medical Marijuana Program Tracking System to document and monitor compliance with the Act, the DBR Regulations, and the DOH Regulations, including but not limited to seed to sale tracking, inventory supply tracking, adherence to restrictions on third party supply and sources of marijuana and marijuana products and transfers thereof off the licensed premises, and all testing compliance tracking. Licensed cultivators may be required to pay costs associated with use of the Medical Marijuana Program Tracking System which may be assessed on an annual, monthly, per use, or per volume basis and payable to the state or to its approved vendor.

- B. Limitation on Sales and Transfers; Contract Requirements
 - Pursuant to R.I. Gen. Laws § 21-28.6-16(e), licensed cultivators shall only sell medical marijuana and marijuana products to Rhode Island registered compassion centers. As part of such sales transactions, the licensed cultivator may transfer and transport medical marijuana and medical marijuana products to a registered compassion center. A licensed cultivator may only receive medical marijuana and marijuana products from a Rhode Island registered compassion center if the receipt is

pursuant to a written contract or purchase order for the cultivator to process the medical marijuana into a product to be furnished back to the compassion center.

- 2. Pursuant to R.I. Gen. Laws § 21-28.6-16(e), all marijuana and marijuana products possessed by a cultivator in excess of the permitted "uncommitted inventory" as defined and delineated in Section 1.7(C)(3) must be under "formal agreement" to be purchased by a compassion center.
- 3. "Formal agreement" requirements shall be as follows: An executed written contract or purchase order shall be required for all sales from a licensed cultivator to a compassion center and shall contain the following minimum terms: a) date of execution/placement of the contract/purchase order, b) description and amount of product to be sold; c) the total and per unit price of the product to be sold; d) the specific date or date range not spanning more than (30) calendar days for fulfillment of the order and delivery or pickup; e) the payment due date, as specifically agreed between the parties, but if no date is specifically agreed to, payment shall be made within sixty (60) calendar days of delivery or pickup. Contracts/purchase orders pursuant to this paragraph may not be modified but may be cancelled or voided by the creation of a new replacement contract/purchase order.
- 4. In furtherance of the intent of R.I. Gen. Laws § 21-28.6-16(e) and pursuant to its minimum oversight rulemaking authority under R.I. Gen. Laws § 21-28.6-16(b)(2), DBR deems the sale and/or transfer of marijuana or marijuana products, with or without consideration, to any other party that is not a Rhode Island registered compassion center, including any transfer between licensed cultivators, to be prohibited.
- 5. Any transfer to or from a third party testing provider shall be in accordance with the DOH Testing Regulations, once adopted.
- 6. Unless specifically permitted by Section 1.7, no other licensed cultivator sales or transfers of marijuana or marijuana products are permitted.
- C. Inventory Limitations; Sources of Inventory
 - 1. Marijuana Plant Inventory
 - a. Prior to the implementation of the Medical Marijuana Tracking System, micro-licensees may not possess more than fifty (50) mature marijuana plants and fifty (50) seedlings which must be properly tagged and tracked in accordance with acceptable alternative tagging and tracking under Section 1.7(D).

- b. Prior to the implementation of the Medical Marijuana Tracking System, Class A cultivator licensees may not possess more than two hundred and fifty (250) mature marijuana plants and two hundred and fifty (250) seedlings which must be properly tagged and tracked in accordance with acceptable alternative tagging and tracking under Section 1.7(D).
- b. Prior to the implementation of the Medical Marijuana Tracking System, Class B cultivator licensees will be limited to five hundred (500) mature marijuana plants and five hundred (500) seedlings which must be properly tagged and tracked in accordance with acceptable alternative tagging and tracking under Section 1.7(D).
- c. After implementation of the Medical Marijuana Tracking System, licensed cultivators will not be subject to a numerical possession limit for marijuana plants, provided every plant is properly tagged and tracked in the Medical Marijuana Tracking System.
- 2. Wet Marijuana Inventory

Licensed cultivators will not be subject to a numerical possession limit for the amount of wet marijuana provided the cultivator complies with the following:

- a. All wet marijuana is tagged and tracked in accordance with the cultivator tagging and tracking requirements provided in Section 1.7(D).
- b. All wet marijuana must be stored in an environment conducive to the drying process and may not be stored in an environment that artificially prolongs the drying process or preserves marijuana in an unusable wet state.
- 3. Usable Marijuana Inventory
 - a. Pursuant to its authority under R.I. Gen. Laws § 21-28.6-16(d), DBR establishes limits on the amount of "uncommitted inventory" of usable marijuana a licensed cultivator may possess based on licensed facility size as provided in the below table. "Uncommitted inventory" shall refer to marijuana and marijuana product not under formal agreement to be purchased by a compassion center.

License class	Pounds of dried	OR	10 mg THC units of	OR	Grams	OR any combined amount of dried
by size per Section	usable marijuana		infused edible		of concentrate	usable marijuana, infused edible
1.5(C)(1)			product			product, and/or

						concentrate that does not equate to more than the maximum limit of dried usable marijuana in pounds
Micro-license	2.5 max	OR	3,320 max	OR	308 max	OR"
Class A	5 max	OR	6,640 max	OR	616 max	OR″
Class B	10 max	OR	13,280 max	OR	1,232 max	OR″
Class C	15 max	OR	19,920 max	OR	1,848 max	OR″
Class D	20 max	OR	26,560 max	OR	2,464 max	OR″

- b. The above uncommitted inventory limits are derived from the equivalency conversions delineated in DOH Regulations, Appendix A. To any extent these equivalency conversions are inconsistent with the DOH Regulations, the DOH Regulations shall be controlling. Limits for combined inventory of marijuana in mixed forms shall be calculated as a total equivalent to the maximum limit of dried usable marijuana in pounds in accordance with the equivalency conversions factors delineated in DOH Regulations, Appendix A.
- c. In accordance with R.I. Gen. Laws § 21-28.6-16(e), all marijuana and marijuana product that exceeds the amount of uncommitted inventory permitted by the above chart must be under formal agreement to be purchased by a compassion center. If such excess marijuana is not under formal agreement to be purchased, the cultivator will have forty-five (45) calendar days to sell the excess to a compassion center or destroy the excess in accordance with the destruction guidelines in Section 1.7(I)(9).
- d. Formal agreement requirements are set forth in Section 1.7(B)(3).
- 4. Sources of inventory for licensed cultivators shall be limited to "legally preexisting inventory" and "clone cutting procurement" as delineated below.
 - a. Legally Pre-Existing Inventory: If a licensed cultivator or its officers, directors, members/managers, or employees possessed medical marijuana plants in compliance with the provisions of the Act before the license was granted, such marijuana plants may be transferred to the licensed cultivator inventory as a one-time transaction upon licensure provided such marijuana plants are properly tagged and tracked in compliance with Section 1.7(D). Except as provided in

the preceding sentence, transfers of marijuana and marijuana product between the licensed cultivator and its officers, directors, members/managers, and/or employees is strictly prohibited.

- b. Clone Cutting Procurement: A licensed cultivator may acquire marijuana plant cuttings to use as clones for plant development ("clone cuttings") not more than once per month in a single transaction of not more than twelve (12) clone cuttings from a "non-affiliated licensed cooperative cultivation." The clone cuttings may be no longer than eight (8) inches in length, and may not contain observable buds or flower. A licensed cultivator who acquires clone cuttings must immediately tag such clone cuttings and track them in accordance with the tagging and tracking requirements set forth in Section 1.7(D). A licensed cultivator must keep records of all clone cutting procurements as required by DBR. "Non-affiliated licensed cooperative cultivation" requirements are further delineated in Section 1.8(O).
- D. Medical Marijuana and Marijuana Product Tagging for Cultivators
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-16(d), every marijuana plant possessed by a licensed cultivator must be accompanied by a medical marijuana tag.
 - 2. Properly using tags with unique identifiers through the Medical Marijuana Program Tracking System, payment of the annual license fee, and compliance with the requirements of this subsection shall be deemed to satisfy the requirements of R.I. Gen. Laws § 21-28.6-16(d).
 - 3. If a licensed cultivator begins to operate prior to the implementation of the Marijuana Program Tracking System, DBR will advise the cultivator of acceptable alternative inventory tagging and tracking systems and protocols. In such a case, any references to the Medical Marijuana Program Tracking System in this section shall be deemed to include the acceptable alternatives.
 - 4. Cultivators must ensure that medical marijuana is marked with Medical Marijuana Program Tracking System unique identifier tags through each stage of production the cultivator is undertaking, from seed propagation through packaging, as may be applicable.
 - 5. Medical Marijuana Program Tracking System unique identifier tags shall contain the following information and/or technical functions:
 - a. DBR license number.

- b. Unique identifier(s) (such as barcodes and/or numerical/alphabetical codes) that track marijuana product through each stage of production.
- c. Licensed premises location.
- d. Any other information or technical functions DBR deems appropriate (such as radio frequency identification).
- 6. Medical Marijuana Program Tracking System unique identifier tags shall not be altered or duplicated.
- 7. Unique identifier tags shall be placed in a manner so as to clearly display their association with a particular plant, plant material, or product, such as affixed to the plant itself, on the growing receptacle, or in the growing medium, by labeling drying racks and other receptacles that wet marijuana dries on, by affixing the tag to the stalk for drying on the stalk, on a label affixed to a storage/transport package and/or retail-ready package, and other reasonable means.
- 8. The unique identifier tags may not be transferred or assigned except when affixed to marijuana plants, wet marijuana, or usable marijuana which is being sold/transferred/ transported in accordance with Sections 1.7(B) and (I)(3).
- 9. Return of unique identifier tags by a licensed cultivator upon revocation or abandonment of the license shall be specifically governed by DBR order or agreement and/or coordinated efforts with law enforcement. Disposal of unique identifier tags by a licensed cultivator as may be required by DBR, such as in the regular course of tagging if different stages will require different tag forms or such as recall of tags due to new technology, shall be handled in accordance with further instructions provided by DBR.
- 10. In addition to any and all other disciplinary actions and civil and criminal penalties authorized by the Act and the DBR Regulations in the event that a licensed cultivator fails to comply with the unique identifier tags provisions for licensed cultivators set forth above, the licensed cultivator is subject to a fine between twenty-five dollars (\$25) and five-thousand dollars (\$5,000) per mature marijuana plant that does not have the required unique identifier tag. See R.I. Gen. Laws § 21-28.6-15(b)(4)(untagged plants exceeding limits set by R.I. Gen. Laws § 21-28.6-16 subject to minimum of the tag fee that would be paid by a cardholder (\$25), leaving discretion to DBR to establish a maximum penalty); R.I. Gen. Laws § 21-28.6-16 (authorizing DBR to limit licensed cultivator inventory).
- E. Inventory Control

- 1. Upon direction by DBR, each licensed cultivator shall utilize the state approved Medical Marijuana Program Tracking System for all inventory tracking from seed to sale as further defined herein.
- 2. If the licensed cultivator is notified by DBR that the Medical Marijuana Program Tracking System is not available, the licensed cultivator will be provided with direction as to alternative inventory control measures, which may include but are not necessarily limited to the licensed cultivator being directed to:
 - a. Conduct an initial comprehensive inventory of all medical marijuana, including usable marijuana available for sale, marijuana plants and seedlings, unusable marijuana, and wet marijuana, as of a date certain set by DBR.
 - b. Conduct subsequent comprehensive inventories at intervals not to exceed twenty-four (24) months from the date of the previous comprehensive inventory.
 - c. Conduct a monthly inventory review of stored, usable marijuana, seedlings, plants, and wet marijuana.
- 3. Upon request, DBR may require the licensed cultivator to conduct and provide the results of alternative inventory control measures outlined above, regardless of the availability and use of the Medical Marijuana Program Tracking System.
- F. Minimum Security Requirements
 - 1. Authority

R.I. Gen. Laws § 21-28.6-16(b)(4) authorizes DBR to promulgate regulations regarding the minimum security requirements for licensed cultivators.

- 2. General Security Requirements
 - a. Each licensed cultivator shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana.
 - b. Use or carry of firearms on the premises and/or perimeter of the licensed cultivator is a prohibited form of security, except by security guards licensed by the Office of the Rhode Island Attorney General pursuant to R.I. Gen. Laws § 5-5.1-13 and who are under written contract to provide security services to the licensed cultivator and by law enforcement personnel during duty.

- c. The outside perimeter of the licensed cultivator shall have adequate lighting to deter theft which may include motion activated lighting acceptable to DBR.
- d. Within any area where marijuana and marijuana products are grown, cultivated, stored, weighed, packaged, processed, or manufactured, any person who does not have a valid licensed cultivator registry identification card shall be considered a "visitor" and must be escorted at all times by a licensed cultivator registry identification card holder. The licensed cultivator must maintain a visitor log for any such activity as detailed in Section 1.7(F)(6)(c).
- e. Each licensed cultivator shall ensure that the storage of marijuana and any marijuana products is in a locked area, meaning that at all points of ingress and egress, the licensed cultivator shall ensure the use of a working commercial-grade door lock.
- 3. Security Alarm Requirements
 - a. Each licensed cultivator shall have a fully operational security alarm system at the premises that will provide suitable protection against theft and diversion, including alarms at all outside perimeter entry points and outside perimeter windows.
 - b. A fully operational security alarm system may include a combination of hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual, or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress).
 - c. A fully operational security alarm system shall at a minimum provide for immediate automatic or electronic notification to alert municipal and/or state law enforcement agencies or public safety personnel to an unauthorized breach or attempted unauthorized breach of security at the licensed cultivator premises and to any loss-of-electrical support backup system to the security alarm system.
 - d. Each licensed cultivator shall establish a protocol for the testing and maintenance of the security alarm system, which shall at a minimum provide for a maintenance inspection/test of the alarm system for each authorized location at intervals not to exceed thirty

(30) calendar days from the previous inspection/test and prompt completion of all necessary repairs to ensure the proper operation of the alarm system.

- e. If the licensed cultivator premises suffers a failure of the security alarm system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period, in addition to the notice requirements provided in Section 1.7(F)(3)(c) and (F)(7), the licensed cultivator must also close the licensed cultivator premises until the security alarm system has been restored to full operation, or, if approved by DBR, provide alternative security measures.
- 4. Video Surveillance Requirements

Each licensed cultivator must have a fully operational video surveillance and camera recording system with appropriate protocols, which shall, at a minimum, comply with the below requirements:

- a. Video surveillance equipment shall, at a minimum, consist of digital or network video recorders, video monitors, and digital archiving devices capable of playback quality sufficient to identify and monitor all individuals (including sufficient clarity of facial features) and activities in the monitored areas.
- b. The recording system must record in digital format.
- c. The date and time must be embedded on the recording without significantly obscuring the picture. Time is to be measured in Eastern Standard Time.
- d. All video surveillance systems must be equipped with a failure notification system that provides prompt notification of any surveillance interruption and/or the complete failure of the surveillance system. Said notification must be routed to licensed cultivator personnel specifically designated by management and to DBR.
- e. All video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage.
- f. Video recordings must be archived in a format and maintained in a manner that ensures authentication of the recording as legitimately-captured video and guarantees that no alteration of the recorded image has taken place.

- g. Remote access to a continuous live feed video on a real time basis must be available at all times to licensed cultivator personnel specifically designated by management and to DBR. Additionally, all video surveillance records and recordings must be made available upon request to DBR.
- h. The system must include a color printer or similar equipment capable of printing still photos of a quality sufficient to identify individuals and activities in the monitored areas.
- i. Camera coverage is required for all areas where marijuana and marijuana products are grown, cultivated, stored, weighed, packaged, processed, or manufactured, including all areas of ingress and egress thereto, security rooms (as defined below), all points of ingress and egress to the exterior of the licensed cultivator, and any computer or other digital access points.
- j. Camera views of required coverage areas shall be continuously recorded twenty (24) hours a day, (7) seven days per week.
- k. All surveillance recordings must be kept for a minimum of sixty (60) calendar days.
- I. Surveillance recording equipment and all video surveillance records and recordings must be housed in a designated, locked and secured room or other enclosure with access limited to licensed cultivator personnel specifically authorized by management (the "security room"). The licensed cultivator must keep on site a current list of all authorized employees and service personnel who have access to the security room and a video surveillance equipment maintenance activity log.
- m. If the licensed cultivator suffers a failure of the surveillance system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period, in addition to the notice requirements provided in Section 1.7(F)(4)(d) and 1.7(F)(7), the licensed cultivator must also close the licensed cultivator premises until the video surveillance system has been restored to full operation, or, if approved by DBR, provide alternative premises monitoring.
- 5. Emergency Plan

The licensed cultivator shall develop and maintain an emergency plan with procedures to be followed to prevent and, if not prevented, to adequately address and mitigate consequences of theft or burglary or attempts thereof, fire, natural disasters, and other emergencies, including

cybersecurity and data breach procedures to prevent a compromise of the integrity of the Medical Marijuana Program Tracking System. The plan shall include training for employees on crime prevention and personal safety techniques.

6. Security-Related Record-Keeping

The licensed cultivator shall maintain the following documentation on-site and with digital back-up for a period of at least twenty-four (24) months after the event:

- a. Inventory records including, at a minimum, the date the inventory was conducted, a summary of the inventory findings and the name, signature and title of the individual who conducted the inventory.
- b. All records of maintenance, inspections, and tests of the security alarm and video surveillance systems and of servicing, modifications, or upgrades performed on said systems. These records shall include, at a minimum, the date of the action, a summary of the action(s) performed and the purpose therefor, and the name, signature and title of the individual who performed the action(s).
- c. Visitor logs which shall include the name of each visitor, the date and time of the beginning and end of the visit, the reason for the visit (i.e. maintenance, authorized pickup, etc.), the name of the escorting licensed cultivator registry identification cardholder.
- d. Emergency notification reports as required by Section 1.7(F)(7).
- 7. Emergency Notifications and Reports
 - a. Licensed cultivators shall provide notification of emergency events to DBR and municipal and/or state law enforcement as outlined below.
 - b. Immediately upon discovery of the event, the licensed cultivator shall provide telephone notification to the appropriate municipal and/or state law enforcement authorities regarding any of the following "emergency events:"
 - (1) Theft or burglary or an attempt thereof.
 - (2) Any fire.
 - (3) A natural disaster that results in the destruction of or damage to medical marijuana or marijuana products.

- (4) A failure of the security alarm system or video surveillance system, due to loss of electrical support, mechanical function, or otherwise, that is expected to exceed an eight (8) hour period.
- (5) A security alarm activation.
- (6) Any other event which requires response by law enforcement or public safety personnel.
- c. The licensed cultivator shall provide e-mail notification to DBR immediately upon discovery of any data breach or cybersecurity threat to the Medical Marijuana Program Tracking System, and within twenty-four (24) hours of discovery of any other emergency event as defined above. A follow-up telephone notification to DBR shall be provided no later than the next business day.
- d. The licensed cultivator shall submit a follow-up written report to DBR within five (5) business days for each emergency event. The written report shall include, at a minimum, a description of the event(s), identification of known or suspected cause(s) for the event(s), any corrective action(s) taken to prevent a recurrence, and the name, title, and signature of the individual preparing the report.
- e. Any notification and report of an emergency event required to be made to DBR pursuant to these DBR Regulations shall be made using the mailing address, telephone number, and/or e-mail address provided by DBR to approved licensees.
- f. Upon written direction to the licensed cultivator, DBR may require that the written and telephone notifications and reporting must be replaced or supplemented by notifications and reporting through the Medical Marijuana Program Tracking System or any other electronic system or means DBR mandates the licensed cultivator to utilize.

G. Record-Keeping and Reporting

1. Authority

R.I. Gen. Laws § 21-28.6-16(b)(3) authorizes DBR to promulgate regulations regarding the minimum record-keeping requirements for licensed cultivators.

2. Operations Manual

Each licensed cultivator shall develop, implement, and maintain on the premises an operations manual which addresses, at a minimum, the following subject areas and requirements:

- a. Procedures for the organization, administration, command, and control of the licensed cultivator (including but not limited to organizational chart, chain of command protocols, etc).
- b. Procedures to ensure accurate record-keeping, including protocols to ensure that all acquisitions and authorized sales of marijuana are logged into the Medical Marijuana Program Tracking System on a real time basis and procedures on proper training and use of the Medical Marijuana Program Tracking System and any other tracking system used by the licensed cultivator.
- c. Records retention policies.
- d. Ethics and compliance policies.
- e. Alcohol and drug free work place policy.
- f. If applicable, medical marijuana manufacturing protocols, safety measures, and training information.
- g. Odor control and mitigation plan.
- 3. Personnel Records

Each licensed cultivator shall maintain a personnel record for each employee or agent for a period of at least six (6) months after termination of the individual's affiliation with the license cultivator. Said personnel record shall contain the following minimum documentation and information:

- a. An application for employment or offers to provide services as an agent.
- b. An employment or engagement description detailing duties, responsibilities, authority, qualifications and supervision.
- c. If applicable, a copy of any employment or engagement.
- d. A record of any disciplinary action taken.
- e. Documentation of all required training, which shall include a signed statement from the individual indicating the date, time and place he

or she received said training, topics discussed, and the name and title of presenters.

4. Additional Records to be Maintained

In addition to all other specific record-keeping requirements of the Act, the DBR Regulations, and the DOH Regulations, the licensed cultivator shall maintain the following records for a minimum of five (5) years:

- a. All contracts and purchase orders with compassion centers, including documentation of any cancelled contracts or purchased orders and any contracts and purchase orders voided by replacement contracts.
- b. Invoices and any supporting documentation of all marijuana purchases, acquisitions, sales, transfers, and payments.
- c. Contracts pertaining to the security alarm and security camera systems.
- d. Contracts with vendors, including any approved third party testing providers.
- e. All records normally retained for tax purposes.
- 5. Storage of Records

Records pertaining to transactions occurring within the last six (6) months shall be stored on the registered premises. Records dating further back may be stored off the premises with DBR's approval.

6. Responsibility for Loss of Records and Data

The licensed cultivator shall exercise due diligence and reasonable care in preserving and maintaining all required records to guard against loss of records and data, including cybersecurity of electronically-maintained records.

- H. Product Packaging and Labeling Requirements
 - 1. Authority and Applicability
 - a. These product packaging and labeling requirements for licensed cultivators are promulgated pursuant to R.I. Gen. Laws § 21-28.6-16(g). These requirements were developed jointly with DOH.

- b. Licensed cultivators shall have ninety (90) calendar days from the effective date of these regulations to comply with these requirements.
- c. Any container or packaging containing usable marijuana or marijuana product, including both retail-retail ready packaging and product otherwise packaged for the purpose of storage and/or authorized transport, must:
 - (1) Protect the product from contamination.
 - (2) Not impart any toxic or deleterious substance to the usable marijuana or marijuana product.
 - (3) Contain the Inventory tracking ID number assigned by the Medical Marijuana Program Tracking System or, if prior to the Medical Marijuana Program Tracking System's implementation, an inventory tracking ID number generated from an alternative inventory tracking system approved by DBR.
 - (4) Be labeled with the quantity of the product.
- d. The remainder of these product packaging and labeling requirements only apply to retail-ready product packaging and labeling. Such requirements only apply to a licensed cultivator if the licensed cultivator is engaged in retail-ready product packaging and/or labeling services as part of the services provided for sale of a retail-ready product to a compassion center pursuant to a written contract/purchase order.
- e. Compliance with these product packaging and labeling requirements shall include the requirement that the licensed cultivator confirms before retail-ready packaging/labeling that the product complies with the DOH Testing Regulation, once adopted.
- 2. Packaging and labeling shall not:
 - a. Make any false or misleading statements including particularly any statements regarding health or physical benefits to the consumer and the composition and profiles that are advertised/indicated in the label.
 - b. Resemble the trademarked, characteristic or product-specialized packaging of any commercially available snack, baked good, or beverage.

- c. Contain any statement, artwork, or design that could reasonably mislead any reasonably prudent person to believe that the package contains anything other than medical marijuana or marijuana product.
- d. Contain any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any reasonably prudent person to believe that the product has been endorsed or manufactured by the State of Rhode Island or any agency thereof or municipality within.
- 3. Packaging for retail-ready medical marijuana and marijuana products shall be opaque, light-resistant, and tamper-evident.
- 4. Packaging and labeling shall not be designed such that it would be attractive to children. This requires the packing and labeling be in black and white only, have no animal characters, and does not contain the word "candy."
- 5. Retail-ready medical marijuana and marijuana products must be packaged in manner that is "child-resistant," which for purposes of these Regulations shall mean that the packaging is designed and constructed to be significantly difficult for children under five years of age to open. Approved methods include but are not limited to:
 - a. Solid or liquid marijuana products may be packaged in plastic four mil or greater in thickness and be heat sealed with no easy-open tab, dimple, corner, or flap.
 - b. Liquid marijuana products may also be packaged in a bottle and sealed using a metal crown cork style bottle cap or other similar sealing method pre-approved by DBR.
- 6. For solid edible marijuana products with more than one serving size in the outer package, each serving must be packaged individually and placed in a child-resistant outer package.
- 7. For liquid edible marijuana products with more than one serving in the package, a measuring cap or dropper must be included in the package with the product.
- 8. All retail-ready medical marijuana and marijuana products must include a label affixed to the package containing the following information, prominently displayed and in a clear and legible English language font:
 - a. The business or trade name of the selling compassion center.

- b. Inventory tracking ID number assigned by the Medical Marijuana Program Tracking System or, if prior to the Medical Marijuana Program Tracking System's implementation, an inventory tracking ID number generated from an alternative inventory tracking system approved by DBR.
- c. Date of final packaging, and, if applicable, the recommended expiration or "use by" date.
- d. Total weight in ounces and grams or volume as appropriate. Weight and volume must be determined using accurately calibrated equipment which equipment must also comply with any other applicable state laws.
- e. Total estimated amount of THC and total estimated amount of CBD.
- f. For edible marijuana products, a list of all ingredients used.
- g. A statement that discloses all pesticides applied to the marijuana plants and growing medium during production and processing.
- h. If solvents were used, statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that are added to the extract.
- i. Any applicable instructions for use and safe storage.
- 9. All retail-ready medical marijuana and marijuana products must include a label affixed to the package containing the following warnings, prominently displayed and in a clear and legible English language font. For products other than edibles and topical applications, these warnings may be on an insert provided with the packaging.
 - a. "Warning: Marijuana has intoxicating effects and may be habit forming and addictive. The intoxicating effects of marijuana may be delayed by up to two hours."
 - b. "Warning: Do not operate a vehicle or machinery under its influence."
 - c. "Warning: There may be health risks associated with consumption of marijuana."
 - d. "Warning: For use only by adults twenty-one and older. Keep out of reach of children."

- e. "Warning: Marijuana should not be used by women that are pregnant or breast feeding."
- f. "Warning: Do not take this product across state lines."
- g. "Warning: For medical use by a registered patient only. Not for resale."
- h. "Warning: This product is not certified to be free of contaminants."
- i. For product to be smoked, "Warning: Smoking is hazardous to your health."
- j. If applicable, a warning regarding use or contact with any nuts or other known allergens as defined in the federal Food Allergen Labeling and Consumer Protection Act of 2004, as administered by the federal Food and Drug Administration.
- 10. Notwithstanding any of the product labeling requirements set forth in this Section 1.7(H), application may be made to DBR for approval to affix a two inch (2") by two inch (2") logo or graphic, which may be colored, for the purpose of identifying the compassion center selling and/or the cultivator producing the product.
- I. Other Licensed Cultivator Operation Requirements
 - 1. Authority

R.I. Gen. Laws § 21-28.6-16(b)(2) authorizes DBR to promulgate regulations regarding the minimum oversight requirements for licensed cultivators. The requirements set forth in this section are promulgated in accordance with that statutory duty of general regulatory supervision over the licensed cultivators.

2. Use on Premises Prohibited

Use of marijuana or marijuana products on the premises of the licensed cultivator is strictly prohibited.

- 3. Transportation of Medical Marijuana to and from Licensed Cultivators
 - a. "Authorized transports" of marijuana and marijuana products to and from licensed cultivators are limited to transports authorized in Section 1.7.

- b. "Registered/licensed facility" shall refer to a either a licensed cultivator or registered compassion center that is party to an "authorized transport," as the context requires.
- c. "Authorized transport vehicle" means a vehicle meeting the following criteria:
 - (1) The vehicle bears no markings that indicate that the vehicle is being used to transport marijuana nor indicates the name of the registered/licensed facility.
 - (2) The vehicle is equipped with a global positioning system monitoring device that is monitored by the originating registered/licensed facility during an authorized transport.
 - (3) The vehicle has a locked storage compartment within which the marijuana and marijuana product being transported is secured.
- d. "Detailed transport manifest" refers to a manifest which DBR may be required to be generated through and/or maintained in the Medical Marijuana Program Tracking System and that shall include the following minimum information:
 - (1) Departure date and approximate time of departure.
 - (2) Names, location addresses, and registration/license numbers of the originating and receiving registered/licensed facilities.
 - (3) Product name or descriptions and quantities (by weight or unit) of each product to be delivered to each specific destination location(s).
 - (4) Arrival date and approximate time of arrival.
 - (5) Delivery vehicle make and model and license plate number.
 - (6) Names, registry identification card numbers, and signatures of the delivery persons.
- e. The originating registered/licensed facility shall ensure that all delivery times and routes are randomized.
- f. Authorized transports may only be made by cardholders affiliated with the particular registered/licensed facility that is the source or recipient party to an authorized transaction. Authorized transports

> must be in compliance with one of the following minimum requirements: (i) an authorized transport may use a single authorized transport vehicle so long as it is operated/occupied by a minimum of two authorized transport cardholders and is subject to the requirement that at least one such cardholder shall remain in the authorized transport vehicle at all times; or (ii) an authorized transport may use two or more authorized transport vehicles that are operated/occupied by authorized transport cardholders provided the authorized transport vehicles are traveling together at all times during the authorized transport.

- g. During all authorized transports, the delivery persons must have on their persons their licensed cultivator or compassion center registry identification cards and the detailed transport manifest.
- h. Any authorized transport vehicle carrying marijuana and marijuana products shall travel directly from the originating registered/licensed facility to the receiving registered/licensed facility. In case of an emergency stop, a detailed written account must be maintained describing the reason for the event, the duration, the location, any activities occurring during the stop, and any personnel exiting the vehicle during the stop.
- i. Authorized transports shall be conducted in such a manner as to ensure that marijuana and marijuana products are secured and safe at all times during transport, which includes, but is not limited to, the requirements that marijuana is not visible from outside the authorized transport vehicle at that any ingestible marijuana products that are perishable are adequately refrigerated, if necessary.
- j. Prior to leaving the originating registered/licensed facility for an authorized transport to another registered/licensed facility, the originating registered/licensed facility must weigh, inventory, and account for on video all marijuana and marijuana product to be transported.
- k. For authorized transports to and from a compassion center, the transport manifest shall be accompanied by a copy of any contract/purchase order for which the transport is being made and documentation of the actual payment date, if prepaid.
- I. The detailed transport manifest shall be prepared by the originating registered/licensed facility and transmitted in advance to the receiving facility. Both facilities shall retain copies of detailed transport manifests as part of their record retention responsibilities.

- m. Within eight (8) hours of after arrival at the destination registered/licensed facility, the receiving party shall re-weigh, re-inventory, and account on video for all marijuana and marijuana product transported.
- n. Both the originating and recipient registered/licensed facilities shall timely adjust their records to reflect in its records the completed authorized transport of marijuana, including logging such information in the Medical Marijuana Program Tracking System. All records and entries in the Medical Marijuana Program Tracking System shall be easily reconciled, by product name and quantity, with the applicable detailed transport manifest. Any unusual discrepancies in the quantity described in the detailed transport manifest and the quantities received shall be reported to DBR and municipal and/or state law enforcement within (24) hours.
- Any vehicle accidents, diversions, or losses during authorized transports of marijuana shall be reported to DBR and law enforcement as an "emergency event" pursuant to Section 1.7(F)(7).
- p. Transportation to or from a third party testing provider shall be in accordance with the DOH Testing Regulations, once adopted.
- 4. Manufacturing and Extraction
 - a. Pursuant to R.I. Gen. Laws § 21-28.6-16(h), licensed cultivators are not permitted to manufacture marijuana using a solvent extraction process that includes the use of a compressed, flammable gas as a solvent.
 - b. Any other manufacturing method using a solvent extraction process must be approved by DBR. If the manufacturing method uses a flammable/combustible material or heat source, the method must also be approved by the State Fire Marshall and/or local fire department.
 - c. Only registered cultivator employees and agents may manufacture marijuana products on the premises.
 - d. The licensed cultivator must maintain written standard operating procedures for each manufacturing process, including step-by-step instructions.
 - e. The licensed cultivator must ensure that for each manufacturing process, all safety and sanitary equipment appropriate for that manufacturing process, including any personal protective

equipment, is provided to any authorized cultivator cardholder who will be involved in that manufacturing process.

- f. All medical marijuana product manufacturing areas must be adequately lit during manufacturing, cleaning, or other use.
- g. All work surfaces on which medical marijuana products are manufactured and the walls and floors in the areas in which such products are manufactured shall be non-porous, non-absorbent, and easily cleanable.
- h. No eating or smoking shall be permitted in the manufacturing area.
- i. The licensed cultivator must provide a training manual and instructional training on each manufacturing process to any authorized cultivator cardholder who will be involved in that manufacturing process.
- 5. Required Employee and Agent Training

Each employee and agent of the licensed cultivator shall receive, at the time of his or her initial appointment and every year thereafter, at a minimum, training in the following:

- a. The proper use of security measures and controls that have been adopted and instruction on the licensed cultivator's emergency plan.
- b. The use of the Medical Marijuana Program Tracking System and any other tracking systems used by the licensed cultivator for persons responsible for using the system.
- 6. Minimum Sanitation and Workplace Safety Conditions
 - a. The licensed cultivator facility shall be maintained in a safe, sanitary, and clean manner, with all operations in the cultivation, receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of medical marijuana and marijuana products conducted in accordance with adequate sanitation principles, as further detailed below.
 - b. The facility must meet the following minimum specifications:
 - (1) Adequate supply of potable hot and cold water.

- (2) Non-porous, non-absorbent and easily cleanable floors, walls, and ceilings in areas where marijuana is cultivated, manufactured, and stored.
- (3) Lavatory facilities that are readily-accessible to employees and that comply with the Rhode Island State Plumbing Code Regulation.
- (4) Adequate hand-washing area(s): hand washing sinks with effective hand-cleaning and sanitizing preparations (such as soap dispensers) and disposable towels or an air dryer for hands.
- (5) Adequate screening or other protection against the entry of pests and environmental contaminants.
- c. All mechanical and electrical equipment shall be maintained in a safe operating condition.
- d. Waste disposal equipment shall be adequate and removal schedules timely so as to minimize the risk of contamination to medical marijuana and marijuana products, including the risk of the waste becoming an attractant, harborage, or breeding place for pests.
- e. All waste (including all liquid, chemical, hazardous, pesticide, manufacturing solvent and chemical waste) must be stored, secured, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other legal requirements. Specific instructions for safe destruction of any marijuana required to be destroyed and proper disposal of medical marijuana waste are provided in Section 1.7(I)(9).
- f. Floors, walls, and ceilings shall be kept clean and in good repair, free from dust, debris, mold, mildew, and other contaminants and potentially hazardous materials.
- g. Lavatory facilities and hand washing areas shall be kept clean and sanitary and in working condition at all times.
- h. Toxic cleaning compounds, sanitizing agents, and other chemicals shall be identified, held, stored and disposed of in a manner that protects against contamination of medical marijuana and marijuana products and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance.

- i. The licensed cultivator shall comply with all relevant statutes, regulations, and requirements administered by the Federal Occupational Safety and Health Administration (OSHA), including but not necessarily limited to standards for toxic and flammable compounds and air contaminants.
- j. All persons working in direct contact with medical marijuana and marijuana products shall conform to hygienic practices while on duty, including but not limited to maintaining adequate personal cleanliness and washing hands thoroughly in an adequate handwashing area before starting work and at any other time when the hands may have become soiled or contaminated.
- k. Any person whose medical condition, as determined by medical examination or as observed by a supervisor, poses or reasonably appears to pose a risk of contamination of medical marijuana and/or medical marijuana products shall be excluded from medical marijuana operations until the condition is cleared. Medical conditions posing a risk of contamination include but are not necessarily limited to open lesions, including boils, sores, or infected wounds, or any other abnormal source of microbial infection.
- I. The licensed cultivator shall not permit the entry of any animal into the premises. Service animals (as defined in the Americans with Disabilities Act) are exempted from this prohibition.
- m. In addition to the safety and sanitary equipment including personal protective equipment that the licensed cultivator is required to furnish its employees involved in marijuana manufacturing and extraction pursuant to Section 1.7(I)(4)(e) of these regulations, the licensed cultivator must also furnish its employees with proper safety equipment for other types of work assigned as part of the licensed cultivator operations.
- 7. Odor Control and Mitigation
 - a. Cultivation area(s) shall have ventilation and filtration systems installed that prevent medical marijuana plant odors from exiting the interior of the structure to an extent that would significantly alter the environmental odor outside, while addressing the potential for mold.
 - b. The ventilation and filtration system, along with any plumbing improvements, shall be installed in compliance with all applicable codes and ordinances, including obtaining any necessary permits, and inspected by the municipality.

- c. Measures to assure compliance with this section shall be documented in an odor control and mitigation plan acceptable to DBR.
- 8. Pesticide Use and Records
 - a. The cultivation process shall use best practices to limit contamination of medical marijuana and marijuana products, including but not limited to mold, mildew, fungus, bacterial diseases, rot, pests, pesticides, and any other contaminant identified as posing potential harm.
 - b. The use of pesticides on marijuana plants in Rhode Island by licensed cultivator will not be considered a violation of these regulations provided that the product must satisfy all of the following criteria:
 - (1) The product must be a "minimum risk pesticide" under 40 C.F.R. § 152.25(f), as the same may be amended from time to time.
 - (2) The product must be labelled for use on "all plants," "other plants," bedding plants, unspecified plants, or unspecified crops.
 - (3) The label must not prohibit indoor or greenhouse use, as applicable.
 - (4) All active ingredients must be eligible for food use as determined by the federal Environmental Protection Agency (EPA). See EPA's Active Ingredients Eligible for Minimum Risk Pesticide Products (last updated December 2015), as the same may be updated and/or amended from time to time. https://www.epa.gov/sites/production/files/2015-12/documents/minrisk-active-ingredients-tolerances-2015-12-15.pdf.
 - (5) All inert/other ingredients must be eligible for food use. See EPA's Inert Ingredients Eligible for FIFRA 25(b) Pesticide Products (last updated December 2015), as the same may be updated and/or amended from time to time. https://www.epa.gov/sites/production/files/2016-07/documents/section25b_inerts.pdf.
 - (6) The product must be a currently registered pesticide product eligible for sale in Rhode Island as determined by the Rhode Island Department of Environmental Management. To verify

> a product's registration in Rhode Island, please consult the online National Pesticide Information Retrieval System through the Center for Environmental and Regulatory Information Systems. See http://npirspublic.ceris.purdue.edu/state/state_menu.aspx?st ate=RI.

- (7) The product must be used in accordance with any and all use instructions on the label.
- c. No application of pesticides shall be made after the vegetative stage of growth of the cannabis plant. The vegetative stage of growth should be determined by visual buds or flower or by proxy of the plant receiving less than eighteen (18) hours of light in a twenty-four (24) hour period.
- d. Pesticides shall be identified, held, stored and disposed of in a manner that protects against contamination of medical marijuana and marijuana products and in a manner that is in accordance with any applicable local, state, or federal law, rule, regulation, or ordinance.
- e. As a DBR record-keeping requirement, licensed cultivators must keep detailed records of any pesticide products used and application regiments, including video recording during pesticide applications which must cease if there is a failure or disruption of the video surveillance system. This record-keeping requirement is independent of that required of commercial pesticide applicators by the Rhode Island Department of Environmental Management, and is intended to apply in addition to that requirement, where relevant.
- 9. Safe Disposal of Medical Marijuana Waste and Safe Destruction of Usable Medical Marijuana
 - a. Marijuana and marijuana product waste (including all liquid, chemical, hazardous, pesticide, manufacturing solvent and chemical waste containing any traces of marijuana) must be stored, secured, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other legal requirements.
 - b. Prior to disposal, marijuana and marijuana product waste must be made unusable and any marijuana plant material made indistinguishable from other plant material. This may be accomplished by grinding and incorporating the marijuana plant waste with other non-consumable solid waste or other ground materials so the resulting mixture is at least fifty percent non-

marijuana waste by volume. Other methods to render marijuana waste unusable must be approved by DBR before implementing. Marijuana waste rendered unusable following an approved method may be delivered to a licensed solid waste disposal facility in Rhode Island for final disposition or disposed of in an alternative manner approved by DBR.

- c. Destruction of marijuana and marijuana materials other than waste generated in the regular course of processing and/or manufacturing (such as destruction of whole plants, wet, or usable marijuana that are found to be in excess of statutory possession limits or destruction of a contaminated batch of medical marijuana product) shall be in a manner acceptable to DBR, which may include consultation with law enforcement.
- d. Destruction of marijuana and marijuana materials upon revocation or abandonment of the license shall be specifically governed by DBR order or agreement and/or coordinated efforts with law enforcement.
- e. Licensed cultivators must maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana and marijuana products (including any waste material produced through the trimming or pruning of a marijuana plant prior to harvest). DBR may mandate storage of any such records or summaries of such records to be through the Medical Marijuana Program Tracking System or any other electronic system DBR designates.
- J. Inspections and Audits; Enforcement Actions
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-16(j), licensed cultivators are subject to reasonable inspection by DBR. Accordingly, DBR and its authorized representatives have authority to enter a licensed cultivator premises at reasonable times and to inspect in a reasonable manner, the premises and all equipment, materials, containers, and other things therein, including without limitation all records, files, financials, sales, transport, pricing, and employee data, research, papers, processes, controls and to inventory any stock of marijuana, labels, containers, paraphernalia and other materials and products.
 - 2. DBR may review and audit the books and records of a licensed cultivator to ascertain compliance with the Act, the DBR Regulations, and/or the DOH Regulations. The licensed cultivator must make such books and records immediately available for reviewing and copying by DBR. DBR

may retain an independent auditor to act as its agent for purposes of this section, the cost of which shall be borne by the licensed cultivator.

- 3. Nothing herein shall be interpreted to limit the real time access of DBR and DOH to information stored in the Medical Marijuana Program Tracking System consistent with the Act.
- 4. Pursuant to R.I. Gen. Laws § 21-28.6-16(e), if a licensed cultivator violates R.I. Gen. Laws § 21-28.6-16 (entitled "Licensed Cultivator") or any portion of the DBR Regulations or DOH Regulations which regulate licensed cultivators and licensed cultivator cardholders, DBR may suspend/revoke a cultivator license and/or impose an administrative penalty, as determined by DBR. Pursuant to R.I. Gen. Laws § 21-28.6-16(I)(5), if a licensed cultivator violates any other provision of the Act, the DBR Regulations, or the DOH Regulations, the cultivator license may be suspended/revoked.
- 5. If an officer, director or manager/member, employee, or agent affiliated with a licensed cultivator violates the Act, the DBR Regulations, and/or the DOH Regulations when acting in their capacity as an officer, director or manager/member, employee, or agent of the licensed cultivator, the licensed cultivator may be subject to suspension/revocation and/or administrative penalties for failure to exercise adequate supervision.

1.8 Cooperative Cultivation Provisions

- A. Authority and Effective Date
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(10), DBR is charged with promulgating regulations governing the licensing and operation of cooperative cultivations, and may promulgate regulations that set a fee for a cooperative cultivation license.
 - Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(1), cooperative cultivations (defined below) must apply to obtain a license from DBR effective January 1, 2017. For cooperative cultivations in existence prior to January 1, 2017 that have submitted a completed cooperative license application no later than January 1, 2017, the cooperative cultivation may continue its operations until its license application is acted upon by DBR.
- B. Cooperative Cultivation Definitions
 - 1. "Cooperative cultivation" shall mean two (2) or more qualifying patient or primary caregiver cardholders that elect to cooperatively cultivate marijuana in the same dwelling unit or commercial unit within the limits and subject to the requirements of a cooperative cultivation license under the Act and these regulations. This excludes the situations of two (2) or

more qualifying patient or primary caregiver cardholder(s) who are primary residents of the same dwelling unit where the medical marijuana plants are grown and who do not elect to grow together within the limits and subject to the requirements of a cooperative cultivation license under the Act and these regulations; provided nothing herein should be deemed to absolve persons in such a situation from complying with the requirements that all medical marijuana plants must be properly tagged and not exceed the plant limits of R.I. Gen. Laws § 21-28.6-4(q)(if election to grow as a licensed cooperative cultivation is not made, no more than twenty-four (24) plants may be grown at a single dwelling unit or commercial unit). See also R.I. Gen. Laws § 21-28.6-14(entitled "Cooperative Cultivations"); R.I. Gen. Laws § 21-28.6-3(10)(defining "dwelling unit"); R.I. Gen. Laws § 21-28.6-3(3)(defining "commercial unit").

- 2. "Licensed cooperative cultivation" shall mean a cooperative cultivation that is required to obtain a license from DBR pursuant to R.I. Gen. Laws § 21-28.6-14 and shall include both "licensed residential cooperative cultivations" and "licensed non-residential cooperative cultivations."
- 3. "Licensed residential cooperative cultivation" shall mean a licensed cooperative cultivation in a location zoned for residential use and that complies with the provisions of Section 1.8(F)(3).
- 4. "Licensed non-residential cooperative cultivation" shall mean a licensed cooperative cultivation that complies with the provisions of Section 1.8(F)(4).
- C. Licensed Cooperative Cultivation "Member" Requirements and Restrictions
 - 1. "Member" of a licensed cooperative cultivation means any qualifying patient or primary caregiver with a registry identification card in good standing with DOH who has elected to grow cooperatively with the other members at the cooperative cultivation premises.
 - 2. No other person other than a "member" may participate in the management or operation of the cooperative cultivation or exert any direct or indirect authority over the management or operations of the cooperative cultivation.
 - 3. If the cooperative cultivation organizes as a legal entity, then any directors/officers and managers/members must be "members" of the cooperative cultivation as defined above.
 - 4. All "members" of a licensed cooperative cultivation must be listed on the application.

- 5. No "member" of a licensed cooperative cultivation may grow medical marijuana at any location other than the licensed cooperative cultivation premises. R.I. Gen. Laws § 21-28.6-4(q).
- D. Cooperative Cultivation Application and License Fees
 - 1. There shall be a non-refundable application fee of fifty dollars (\$50) for initial cooperative cultivation license applications.
 - 2. The annual license fee for residential cooperative cultivations shall be two hundred and fifty dollars (\$250).
 - 3. The annual license fee for non-residential cooperative cultivations shall be five hundred dollars (\$500).
 - 4. These annual license fees shall be in addition to the individual qualifying patient and primary caregiver registration fees and medical marijuana plant tag fees.
- E. General Application Requirements for Cooperative Cultivation Licenses
 - 1. Each initial application for a cooperative cultivation license shall be on such forms and through such submission mechanisms as designated by DBR and shall include:
 - a. The signature of the individual identified as being primarily responsible for the license ("primary applicant") and one designee.
 - b. A list of the legal name of each qualified patient cardholder and/or primary caregiver cardholder that is or will be a member of the cooperative cultivation and for each such person, their DOH registry identification card number, date of birth, a mailing address and phone and/or e-mail address at which they can be best reached.
 - c. If the cooperative cultivation chooses to be organized as a legal entity for legal purposes without the intent of generating profit, the cooperative cultivation must also provide the following information regarding any such legal entity:
 - (1) Legal and any d/b/a name(s), certificate of incorporation or organization in Rhode Island or certificate of authority to transact business in Rhode Island, articles of incorporation or organization, and bylaws or operating agreement.
 - (2) The legal name, DOH registry identification card number, date of birth, of any and all directors/officers or

managers/members of the cooperative cultivation, including a mailing address and phone and/or e-mail address at which they can be best reached.

- d. Tax Affidavit in accordance with R.I. Gen. Laws § 5-76-1 et seq. filled out by the "primary applicant" or legal entity who will hold the license, if approved.
- e. Evidence of compliance with location-specific initial application requirements and security plan requirement as detailed in Sections 1.8(F)(6) and 1.8(G), respectively.
- 2. Only initial applications which DBR has determined to be complete (i.e., adequately address all application requirements above) shall be eligible for review. A primary applicant who submits an incomplete initial application shall receive written notification from DBR regarding the specific deficiencies and shall be allowed to resubmit additional material to address these deficiencies within a reasonable timeframe.
- 3. When a primary applicant for a licensed cooperative cultivation is notified that the application has been approved by DBR, he or she shall complete the below steps before a license authorizing operation of cooperative cultivation will be issued:
 - a. Pay the annual license fee set forth in Section 1.8(D) above.
 - b. Provide any updates to previously submitted application information.
 - c. Provide evidence of compliance with final location-specific application requirements as detailed in Section 1.8(F)(7).
 - d. For non-residential licensed cooperative cultivations, provide a copy of the security plan as required by Section 1.8(G).
 - e. Provide evidence of completion of divestiture plan pursuant to Section 1.8(H).
- F. Cooperative Cultivation Location Restrictions and Location-Specific Application Requirements
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(3), a single structural building may only have one cooperative cultivation operating in it. This precludes a structural building with multiple units from having more than one unit with a cooperative cultivation operating in it, unless a single cooperative cultivation has been approved by DBR to occupy two or more connected

units provided any such approved occupation of multiple units does not increase the applicable medical marijuana possession limits.

- 2. Cooperative cultivation licenses will only be issued for "secure indoor facilities." The secure indoor facility shall satisfy the following parameters:
 - a. Enclosed area with four walls and a roof.
 - b. Equipped with locks and any other appropriate security devices that limit access to the members of the cooperative cultivation. Locks and devices must be sufficient to discourage theft, unauthorized entrance, and access by persons under eighteen (18).
 - c. Marijuana is not visible from the street or other public areas. See R.I. Gen. Laws § 21-28.6-14(a)(4).
- 3. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(7)(ii), a licensed residential cooperative cultivation must have displayed prominently on the premises an affidavit by a licensed electrician that the cultivation has been inspected and is in compliance with any applicable state or municipal housing and zoning codes for the municipality where the licensed residential cooperative cultivation is located.
- 4. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(7)(i), a licensed nonresidential cooperative cultivation must have displayed prominently on the premises documentation from the municipality where the single location is located that the location and the cultivation has been inspected by the municipal building and/or zoning official and the municipal fire department and is in compliance with any applicable state or municipal housing and zoning codes.
- 5. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(8), licensed cooperative cultivations must report the location of the licensed cooperative cultivation to RISP. Cooperative cultivation licensees and applicants may designate DBR to report the location to RISP on their behalf through the application process. If the cooperative cultivation licensee or applicant will self-report, DBR will verify with RISP that they did in fact correctly report the cooperative cultivation. This reporting shall be made before a cooperative cultivation license is issued.
- 6. Location-Specific Initial Application Requirements. In order to enable DBR to ascertain compliance with the above location restrictions, the initial application for the cooperative cultivation license must contain the following information regarding the proposed physical location for the cooperative cultivation licensed premises:

- a. A sufficient description of the location (by plat and lot number, mailing address, etc.).
- b. A description of objective parameters (such as approximate distances from streets and public areas) and/or proposed measures (such as black-out window shades) that ensure that marijuana at the premises shall not be visible from the street or other public areas.
- c. Evidence of either ownership of property by the primary applicant person or legal entity applicant (as applicable) or any qualified patient or primary caregiver cardholder that has been listed as associated with the cooperative cultivation applying for the license, or agreement by owner of property to allow the operation of a licensed cooperative cultivation on the property.
- 7. Location-Specific Final Application Requirements: If an applicant for a licensed cooperative cultivation is notified that the application has been approved by DBR, it shall complete the below steps before a license authorizing operation of cooperative cultivation will be issued:
 - a. For residential cooperative cultivation license applicants, submit an affidavit by a licensed electrician that the location and cultivation (if the cultivation predates the licensing requirement) has been inspected and is in compliance with any applicable state or municipal housing and zoning codes for the municipality where the licensed residential cooperative cultivation is located.
 - b. For non-residential cooperative cultivation license applicants, submit:
 - (1) Documentation from the municipal building and/or zoning official and the municipal fire department indicating that the location and the cultivation (if the cultivation predates the licensing requirement) has been inspected by and is in compliance with any applicable state or municipal housing and zoning codes.
 - (2) A draft diagram of the premises, including where within the facility the medical marijuana will be grown, stored, and processed, and showing the location of the facility relative to streets and other public areas.
 - c. For all cooperative cultivations, residential or non-residential, provide any updates to previously submitted application information regarding the location.

- d. For all cooperative cultivations, residential or non-residential, contact DBR to coordinate the pre-license DBR inspection. Nothing in this paragraph should be construed as limiting inspections at an earlier time in addition to the final pre-license inspection.
- G. Security Plan Requirement For Non-Residential Cooperative Cultivation License Applicants Only
 - 1. Non-residential cooperative cultivation license applicants must submit and approved licensees must maintain a security plan that meets the below general criteria.
 - 2. Security and safety measures (such as locks and lighting) shall be sufficiently designed to deter and prevent theft of marijuana.
 - 3. The security plan must include an emergency plan component with procedures to be followed to prevent and, if not prevented, to adequately address and mitigate consequences of theft or burglary or attempts thereof, fire, natural disasters, and other emergencies.
 - 4. Use or carry of firearms on the premises and/or perimeter of the nonresidential cooperative cultivation is a prohibited form of security, except by security guards licensed by the Office of the Rhode Island Attorney General pursuant to R.I. Gen. Laws § 5-5.1-13 and who are under written contract to provide security services to the non-residential cooperative cultivation and by law enforcement personnel during duty.
- H. Divestiture of Prohibited Material Financial Interest and Control
 - A licensed cooperative cultivation and "key persons" thereof may not have any "material financial interest or control" in another licensed cooperative cultivation, a compassion center, or a licensed cultivator or vice versa. See R.I. Gen. Laws § 21-28.6-12(c)(1)(iii)(limiting a compassion center to one additional location to cultivate its marijuana); R.I. Gen. Laws § 21-28.6-12(b)(1)(ii)(DBR minimum oversight over compassion centers); R.I. Gen. Laws § 21-28.6-16(i)(cultivator to be licensed at one location only); R.I. Gen. Laws § 21-28.6-16(b)(2)(DBR minimum oversight over cultivators); R.I. Gen. Laws § 21-28.6-3(4)(i) and R.I. Gen. Laws § 21-28.6-3(12)(separately defining "compassion center" and "licensed cultivator," respectively); R.I. Gen. Laws § 21-28.6-14(a)(10)(DBR authority to regulate operations of licensed cooperative cultivations); R.I. Gen. Laws § 21-28.6-4(q)(qualifying patient and primary caregiver cardholders may only grow at one location).
 - 2. "Material financial interest or control" shall mean: i) any ownership interest, regardless of the size of the holding, and including any ownership interest through a subsidiary or affiliate; ii) trusteeship, mortgage, guarantor,

endorser or surety relationship, or loan relationship, except that loan relationship for the purposes of this definition shall exclude accounts payable and accounts receivable on account of a medical marijuana purchase order; iii) any other beneficial financial interest such that the holder bears the risk of loss (other than as an insurer) or has an opportunity to gain profit from the operation or sale of the regulated medical marijuana business; iv) operational control including but not limited to interlocking directors or officers or through a management agreement.

- 3. "Key persons" shall mean officers, directors, LLC managers/members and any persons with managing or operational control.
- 4. Therefore, if a licensed cooperative cultivation application is approved and any prohibited material financial interest or control has been identified by DBR or is otherwise known to the applicant, such interest or control must be divested prior to issuance of the cooperative cultivation license. The plan of divestiture shall be filed with DBR.
- 5. The duty to divest prohibited material financial interests and control is a continuing obligation of licensure.
- I. Prior Notice of Material Changes; Continuing Duty to Update Application; Change in Location
 - 1. A licensed cooperative cultivation shall provide DBR with written notice of any change described below at least ten (10) business days prior to the proposed effective date of the change:
 - a. Any disassociation of a member from the licensed cooperative cultivation.
 - b. Any new member of the licensed cooperative cultivation.
 - 2. A licensed cooperative cultivation shall provide DBR with written notice of any change described below at least sixty (60) calendar days prior to the proposed effective date of the change:
 - a. If organized as a legal entity, any change in such legal entity's organization (e.g. change in legal form from corporation to limited liability company, change in the board of directors for corporation, change in managers/members for limited liability companies, etc.)
 - b. Any request for change in the licensed and inspected location.
 - 3. For updates in information other than the categories requiring the above delineated prior notice, the licensed cooperative cultivation has a

continuing obligation to update, amend and/or correct any information requested and/or submitted in the application process within ten (10) business days of any change in the information submitted and/or any material change in circumstances related to the application.

- 4. Requests for change in the licensed and inspected location for the cooperative cultivation require following the location-specific application requirements set forth in Section 1.8(F) and no move may take place unless the request is approved by DBR after satisfaction of those application requirements. If a move is approved, the DBR will provide specific instructions for movement of medical marijuana, which may involve consultation with law enforcement.
- J. Licensed Residential Cooperative Cultivation Possession Limits
 - 1. Marijuana plants possessed by a licensed residential cooperative cultivation are limited to the number of plants that are properly tagged in compliance with all provisions of Section 1.9 and as specifically capped in accordance with subsection 1.9(D)(5) therein.
 - 2. Possession of usable marijuana by a licensed residential cooperative cultivation is limited to the lesser of: (a) ten (10) ounces of dried usable marijuana as capped by R.I. Gen. Laws § 21-28.6-14(6)(ii); and (b) the aggregate total maximum amount of dried usable marijuana that all members of the cooperative cultivation are permitted to possess pursuant to R.I. Gen. Laws § 21-28.6-4(a), (e), and (o). Possession under this paragraph may include any combination of dried usable, edible, or concentrate marijuana that when calculated for total aggregate equivalency amount to dried usable marijuana does not exceed the maximum limit of this paragraph. Possession limits for marijuana possessed in mixed forms shall be calculated as a total equivalent to the maximum limit of dried usable marijuana in pounds in accordance with the equivalency conversion factors delineated in Appendix A of the DOH Regulations. This paragraph was developed jointly with DOH.
 - 3. Pursuant to R.I. Gen. Laws § 21-28.6-14(6)(ii), possession of wet marijuana by a licensed residential cooperative cultivation is limited to the lesser of: (a) fifty (50) ounces of wet marijuana (which, based on the conversion factors adopted in Appendix A of the DOH Regulations, is the equivalent of ten (10) ounces of dried usable marijuana as capped by R.I. Gen. Laws § 21-28.6-14(6)(ii)); and (b) the aggregate total maximum amount of wet marijuana that all members of the cooperative cultivation are permitted to possess. This paragraph was developed jointly with DOH.
- K. Licensed Non-Residential Cooperative Cultivation Possession Limits

- 1. Marijuana plants possessed by a licensed non-residential cooperative cultivation are limited to the number of plants that are properly tagged in compliance with all provisions of Section 1.9 and as specifically capped in accordance with subsection 1.9(D)(6) therein.
- 2. Possession of usable marijuana by a licensed non-residential cooperative cultivation is limited to the lesser of: (a) ten (10) ounces of dried usable marijuana as capped by R.I. Gen. Laws § 21-28.6-14(6)(i); and (b) the aggregate total maximum amount of dried usable marijuana or its edible or concentrate equivalent that all members of the cooperative cultivation are permitted to possess pursuant to R.I. Gen. Laws § 21-28.6-4(a), (e), and (o). Possession under this paragraph may include any combination of dried usable, edible, or concentrate marijuana that when calculated for total aggregate equivalency amount to dried usable marijuana does not exceed the maximum limit of this paragraph. Possession limits for marijuana possessed in mixed forms shall be calculated as a total equivalent to the maximum limit of dried usable marijuana in pounds in accordance with the equivalency conversion factors delineated in Appendix A of the DOH Regulations. This paragraph was developed jointly with DOH.
- 3. Pursuant to R.I. Gen. Laws § 21-28.6-14(6)(i), possession of wet marijuana by a licensed non-residential cooperative cultivation shall be limited to the lesser of: (a) fifty (50) ounces of wet marijuana (which, based on the conversion factors adopted in Appendix A of the DOH Regulations, is the equivalent of ten (10) ounces of dried usable marijuana as capped by R.I. Gen. Laws § 21-28.6-14(6)(i)); and (b) the aggregate total maximum amount of wet marijuana that all member of the cooperative cultivation are permitted to possess. This paragraph was developed jointly with DOH.
- L. Odor Control and Mitigation

Licensed cooperative cultivations shall take any and all reasonable efforts to prevent marijuana plant odors from exiting the interior of the approved structure to an extent that would significantly alter the environmental odor outside. For example, such reasonable efforts may include ventilation and filtration systems.

- M. Manufacturing
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-4(s), patient and primary caregiver cardholders are prohibited from the manufacture of marijuana using a solvent extraction process that includes the use of a compressed, flammable gas as a solvent. This prohibition extends to licensed cooperative cultivations.

- 2. Any other manufacturing method using a solvent extraction process must be approved by DBR. If the manufacturing method uses a flammable/combustible material or heat source, the method must also be approved by the State Fire Marshall and/or local fire department. The licensed cooperative cultivation must provide any information and documentation as required to consider any such requests for approval.
- N. Safe Disposal of Medical Marijuana Waste and Safe Destruction of Usable Medical Marijuana
 - 1. Marijuana and marijuana product waste (including all liquid, chemical, hazardous, pesticide, manufacturing solvent and chemical waste containing any traces of marijuana) must be stored, secured, and managed in accordance with all applicable federal, state, and local statutes, regulations, ordinances, or other legal requirements.
 - 2. Prior to disposal, marijuana and marijuana product waste must be made unusable and any marijuana plant material made indistinguishable from other plant material. This may be accomplished by grinding and incorporating the marijuana plant waste with other non-consumable solid waste or other ground materials so the resulting mixture is at least fifty percent non-marijuana waste by volume. Other methods to render marijuana waste unusable must be approved by DBR before implementing. Marijuana waste rendered unusable following an approved method may be delivered to a licensed solid waste disposal facility in Rhode Island for final disposition or disposed of in an alternative manner approved by DBR.
 - 3. Destruction of marijuana and marijuana materials other than waste generated in the regular course of processing and/or manufacturing (such as destruction of whole plants, wet, or usable marijuana that are found to be in excess of statutory possession limits or destruction of a contaminated batch of medical marijuana product) shall be in a manner acceptable to DBR, which may include consultation with law enforcement.
 - 4. Destruction of marijuana and marijuana materials upon revocation or abandonment of the license shall be specifically governed by DBR order or agreement and/or coordinated efforts with law enforcement.
 - 5. In addition to the above requirements, non-residential cooperative cultivations must also maintain accurate and comprehensive records regarding waste material that accounts for, reconciles, and evidences all waste activity related to the disposal of marijuana and marijuana products (including any waste material produced through the trimming or pruning of a marijuana plant prior to harvest).
- O. Prohibited and Permitted Sales and Transfers

- 1. Pursuant to R.I. Gen. Laws § 21-28.6-4(c) and (i), a qualifying patient cardholder or primary caregiver is prohibited from selling, giving, or distributing marijuana to a compassion center after December 31, 2016. This prohibition extends to sales and transfers by licensed cooperative cultivations.
- 2. Clone Cutting Procurement
 - Section 1.7(C)(4)(b) of these regulations permits a licensed cultivator to acquire from a "non-affiliated licensed cooperative cultivation" not more than twelve (12) marijuana plant cuttings in a single monthly transaction to use as clones for plant development ("clone cuttings"). Such clone cuttings may be no longer than eight (8) inches in length, and may not contain observable buds or flower.
 - b. For purposes of the provisions of these regulations regarding clone cutting procurement, a "non-affiliated licensed cooperative cultivation" shall refer to a licensed cooperative cultivation that does not have any members who are also officers, directors, managers/members, employees, or agents of the licensed cultivator which the licensed cooperative cultivation would be supplying with clone cuttings.
 - c. Each licensed cooperative cultivation that elects to supply clone cuttings as permitted by these regulations is limited to supplying no more than two (2) licensed cultivators per month and must keep records of all clone cutting procurements as required by DBR.
- 3. Except for clone cutting procurements as permitted above, transfer of medical marijuana and medical marijuana products for consideration by the licensed cooperative cultivation or any of its members is strictly limited to transfer amongst members of that cooperative cultivation and to transfer by caregiver members to their associated patients.
- P. Documentation Required to be Posted on the Premises
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(7)(iii), the cooperative cultivation license issued by DBR must be displayed prominently on the premises. The license displayed shall be the document printed for the most recent renewal period.
 - 2. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(5), each member of the licensed cooperative cultivation shall sign a written acknowledgement of the limitations of the right to use and possess marijuana for medical purposes in Rhode Island. Said acknowledgment shall be on such forms

as directed by DBR. This documentation must be displayed prominently in the cooperative cultivation premises.

- Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(7)(i), a licensed nonresidential cooperative cultivation must have the municipal inspection/compliance documentation (as further described in Section 1.8(F)(4)) displayed prominently on the premises.
- 4. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(7)(ii), a licensed residential cooperative cultivation must have the licensed electrician inspection/compliance affidavit (as further described in Section 1.8(F)(3))) displayed prominently on the premises.
- 5. As used in this section, the requirement of documentation being "displayed prominently" shall be deemed satisfied by posting the documentation on a wall with clear visibility and access within or immediately outside the premises.
- Q. Compliance Standards
 - 1. Licensed cooperative cultivations must be organized and operated in a manner to ensure compliance with all relevant state and local laws and regulations and to safeguard against diversion of marijuana to illicit markets.
 - 2. The person identified as the primary applicant and the designee of the licensed cooperative cultivation shall each be responsible for the verification that each member of the cooperative cultivation is the holder of a valid and active qualified patient or primary caregiver registry identification card. This includes keeping on the premises copies of the qualified patient or primary caregiver cardholder cards printed for the most recent renewal period.
- R. Inspections and Enforcement
 - 1. Pursuant to R.I. Gen. Laws § 21-28.6-14(a)(6)(v), cooperative cultivations are subject to reasonable inspection by DBR for the purposes of enforcing applicable provisions of the Act, the DBR Regulations, and the DOH Regulations. Because the Act and the DBR Regulations require inspections for compliance with applicable state and local zoning, housing, and fire codes, DBR may be accompanied by state or local officials authorized to determine compliance with said codes as part of its inspection pursuant to this section.
 - 2. Pursuant to R.I. Gen. Laws § 21-28.6-14(b), any violation of any applicable provision of the Act, the DBR Regulations, or the DOH Regulations may result in the revocation or suspension of the cooperative

cultivation license. Administrative fines may also be assessed in accordance with R.I. Gen. Laws § 21-28.6-15 (entitled "Medical Marijuana Plant Tags") and Section 1.9(N) herein.

- 3. Nothing in this section shall alter or impair the ability of law enforcement to confiscate excess, untagged, and/or invalidly tagged marijuana plants and revoked and/or otherwise invalid plant tags in accordance with applicable criminal law and procedures.
- S. Medical Marijuana Plant Tag Procedures Upon Termination of Cooperative Cultivation License
 - 1. Subject to paragraph 2 below, upon termination of a cooperative cultivation license, whether by voluntary dissolution and surrender of license or by revocation of the license by DBR, the cooperative cultivation shall destroy all medical marijuana and plants and return each and every medical marijuana plant tag associated with the cooperative cultivation within ten (10) business days of license termination.
 - 2. If an individual registered patient or primary caregiver cardholder has medical marijuana, plants and associated tags tied to a cooperative cultivation grow location and the cooperative cultivation license for that location is surrendered or revoked, the individual can only retain the medical marijuana, plants and associated tags that are associated with their individual registration (up to the individual maximum number of plants) if the individual's registration as a patient or caregiver is still in good standing with DOH. A qualifying individual shall follow the following steps prior to transportation of any marijuana plants.
 - a. The individual must apply to DBR for transfer of the marijuana plant tags to a new location, on such forms and through such mechanisms as DBR designates.
 - b. Then, DBR will verify with DOH the continued validity of the registry identification card(s) for which the tags were issued as well as confirm the registration of the new grow location.
 - c. Once the change of location application is processed, the transport shall be conducted in the time period prescribed and be accompanied by a DBR receipt.

1.9 Medical Marijuana Plant Tag Program

A. Scope of Section

- 1. This section applies to patient cardholders who have chosen to grow medical marijuana for themselves as an alternative to use of a caregiver or compassion center and to all caregiver cardholders.
- 2. Eligibility for medical marijuana plant tags: only persons for whom DOH has approved an application as a qualified patient or primary caregiver and issued a registry photo identification card to the applicant; or, for qualified patients and primary caregivers who are renewing their medical marijuana registration, for whom DOH has approved the renewal application of the qualified patient or primary caregiver and issued a registry photo identification card to the applicant.
- 3. Patient and caregiver cardholders who have elected to cooperatively cultivate are further subject to all requirements of Section 1.8 regulating licensed cooperative cultivations.
- 4. Medical marijuana tagging and tracking requirements for licensed cultivators are set forth in Section 1.7(D).
- B. Administration of Plant Tag Program

DBR and DOH have jointly determined that DBR will primarily administer all aspects of the medical marijuana plant tag program in order to fulfill the state obligation to monitor and verify compliance with the statutory requirements that cardholders electing to grow do not exceed plant limits, properly tag all permitted plants, and do not grow at more than one location. This Section shall be deemed to be promulgated jointly with DOH. See R.I. Gen. Laws § 21-28.6-15 and § 21-28.6-4; DOH Regulations § 4.9.

- C. Plant Tag Program Timeline and Basic Guidelines
 - 1. Pursuant to § 21-28.6-15(a) of the Act, effective April 1, 2017, every marijuana plant possessed by a qualified patient or primary caregiver cardholder must be accompanied by a physical medical marijuana plant tag purchased through DBR and issued by DOH. Plant tags being issued by DOH shall mean the following:
 - a. DOH has approved the application of the qualified patient or primary caregiver and issued a registry photo identification card to the applicant; or for qualified patients and primary caregivers who are renewing their medical marijuana registration, DOH has approved the renewal application of the qualified patient or primary caregiver and issued a registry photo identification card to the applicant.
 - b. DBR verifies with DOH the status of the card and any information submitted on the DBR plant tag purchasing form in accordance with

§ 21-28.6-15(a)(2) of the Act. For plant tags issued to qualified patient cardholders after January 1, 2019, DBR will verify both the status of the card and the election to grow with DOH in accordance with § 21-28.6-15(a)(3).

- c. The plant tag set fee is paid to DBR and the plant tag is distributed by DBR to the qualified patient or primary caregiver cardholder.
- 2. Pursuant to R.I. Gen. Laws § 21-28.6-15(a)(1), medical marijuana plant tags will be sold in "tag sets" of one plant tag for a mature plant and one plant tag for a seedling.
- 3. No later than April 1, 2017, all qualified patient cardholders who choose to grow for themselves must obtain at least one (1) medical marijuana plant tag set and enough plant tag sets to properly tag every marijuana plant in their lawful possession (up to the maximum number of tags that may be issued pursuant to Section 1.9(D)(2) below).
- 4. No later than April 1, 2017, all primary caregiver cardholders must obtain at least one (1) medical marijuana plant tag set for each qualified patient cardholder to whom the primary caregiver cardholder is connected through DOH's registration process and enough plant tag sets to properly tag every marijuana plant in their lawful possession (up to the maximum number of tags that may be issued pursuant to Sections 1.9(D)(3) and (D)(4) below).
- 5. Qualified patient cardholders who register with DOH after April 1, 2017 and who choose to grow for themselves must obtain at least one (1) medical marijuana plant tag set within ten (10) business days of receiving their registry identification card from DOH. Such patients are further responsible for obtaining any additional medical marijuana plant tag sets necessary and may not legally possess medical marijuana plants until such time as the plant tags are obtained.
- 6. Primary caregiver cardholders who register with DOH after April 1, 2017, must obtain at least one (1) medical marijuana plant tag set for each qualified patient cardholder to whom the primary caregiver cardholder is connected through DOH's registration process within ten (10) business days of receiving their registry identification card from DOH. Such caregivers are further responsible for obtaining any additional medical marijuana plant tag sets necessary and may not legally possess medical marijuana plants until such time as the plant tags are obtained.
- 7. Any primary caregiver cardholder who becomes connected with any additional qualified patient cardholder(s) through DOH's registration process after April 1, 2017, must obtain at least one (1) medical marijuana plant tag set for each additional qualified patient cardholder within ten (10)

business days of said connection. Such caregivers are further responsible for obtaining any additional medical marijuana plant tag sets necessary and may not legally possess any additional medical marijuana plant(s) until such time as the plant tags are obtained.

- 8. Every member of a licensed cooperative cultivation must be in compliance with the above minimum tag requirements as a condition of the cooperative cultivation license.
- D. Maximum Number of Plant Tag Sets
 - 1. The maximum number of medical marijuana plant tag sets that can be purchased from DBR corresponds to the maximum number of mature plants that may be possessed by the purchaser under the Act.
 - 2. A qualified patient cardholder may purchase no more than twelve (12) medical marijuana plant tag sets (comprised of twelve (12) mature plant tags and twelve (12) seeding tags for a total of twenty-four (24) medical marijuana plant tags), which corresponds to the possession limits of twelve (12) mature plants and twelve (12) seedlings set by R.I. Gen. Laws § 21-28.6-4(a) and § 21-28.6-4(f), respectively.
 - 3. A primary caregiver cardholder connected with one (1) qualified patient cardholder through DOH's registration process may purchase no more than twelve (12) medical marijuana plant tag sets (comprised of twelve (12) mature plant tags and twelve (12) seedling tags for a total of twenty-four (24) medical marijuana plant tags), which corresponds to the possession limits of twelve (12) mature plants per qualified patient cardholder and twelve (12) seedlings derived from R.I. Gen. Laws § 21-28.6-4(e) and § 21-28.6-4(f), respectively.
 - 4. A primary caregiver cardholder connected with at least two (2) and up to five (5) qualified patient cardholders through DOH's registration process may purchase no more than twenty-four (24) medical marijuana plant tag sets (comprised of twenty-four (24) mature plant tags and twenty-four (24) seedling tags for a total of forty-eight (48) medical marijuana plant tags), which corresponds to the possession limits of twenty-four (24) mature plants and twenty-four (24) seedlings set by R.I. Gen. Laws § 21-28.6-4(e) and § 21-28.6-4(f), respectively.
 - 5. A residential cooperative cultivation formed by two (2) or more qualified patient and/or primary caregiver cardholders may purchase no more than twenty-four (24) medical marijuana plant tag sets (comprised of twenty-four (24) mature plant tags and twenty-four (24) seedling tags for a total of forty-eight (48) medical marijuana plant tags), which corresponds to the possession limits of twenty-four (24) mature plants and twenty-four (24) seedlings set by R.I. Gen. Laws § 21-28.6-14(a)(6)(ii).

- 6. A non-residential cooperative cultivation may purchase plant tag sets of no more than the lesser of: (a) forty-eight (48) medical marijuana plant tag sets (comprised of forty-eight (48) mature plant tags and forty-eight (48) seedling tags for a total of ninety-six (96) medical marijuana plant tags), which corresponds to the maximum possession limits for a non-residential cooperative cultivation of forty-eight (48) mature plants and forty-eight (48) seedlings set by R.I. Gen. Laws § 21-28.6-14(a)(6)(i); and (b) the number of medical marijuana plant tag sets which would correspond to the total maximum amount of mature plants that each individual qualified patient cardholder and each individual primary caregiver cardholder growing at the cooperative cultivation is permitted to grow under the mature plant and seedling possession limits delineated above.
- E. Plant Tag Fees
 - 1. R.I. Gen. Laws § 21-28.6-15(a)(1) mandates that DBR charge an annual fee for each medical marijuana plant tag set which shall include one plant tag for a mature medical marijuana plant and one plant tag for a seedling. Pursuant to the mandate, DBR hereby establishes the below annual fee schedule.
 - 2. Qualifying patient cardholder Twenty-five dollars (\$25) per plant tag set.
 - 3. Reduced-registration patient The fee shall be waived for patients for which DOH has determined qualification for reduced-registration due to income or disability status, as may be periodically determined by DOH.
 - 4. Primary caregiver cardholder Twenty-five dollars (\$25) per plant tag set.
 - 5. Caregiver registered with DOH to grow for reduced-registration patient(s) -The fee shall be adjusted for caregivers registered with DOH to grow for one (1) to five (5) qualifying patient cardholder(s) for which DOH has determined qualification for reduced- registration due to income or disability status. Specifically:
 - a. If a primary caregiver is registered with DOH to grow for reducedregistration patients only, the plant tag fees shall be waived entirely.
 - b. If a primary caregiver is registered with DOH to grow for one (1) or more reduced-registration patients and one (1) or more fullregistration patients, the primary caregiver shall be required to purchase at least one (1) plant tag set per full-registration patient at the rate of twenty-five dollars (\$25) per plant tag set. In this case, the remainder of the plant tag sets up to the numerical limits delineated herein may be obtained with a fee waiver; provided, however, that no more than twelve (12) fee-waived plant tag sets may be obtained per reduced-registration patient.

- c. If a primary caregiver has used the plant tag fee reductions cited above and then at any point prior to the next plant tag renewal date that primary caregiver is in the position of having no associations with any reduced-registration patients, the primary caregiver shall take one of the following actions within ten (10) business days:
 - (1) Register with DOH to grow for one (1) or more other reduced-registration patients;
 - (2) Register with DOH to grow for one (1) or more fullregistration patients and pay the balance of what would have been paid had the plant tag sets been obtained or renewed with no reduced-registration patients; or
 - (3) If not registered with DOH to grow for any other existing or new patients within ten (10) business days, destroy the marijuana plants and then also return the plant tags within an additional ten (10) business day period.
- F. Applications and Processes for Obtaining and Renewing Plant Tags
 - 1. Applications to obtain medical marijuana plant tags pursuant to this Section and to renew said plant tags shall be on such forms and through such submission mechanisms as directed by DBR.
 - 2. Required application information shall include, but is not necessarily limited to, the registry identification number of the applicant, and, if the applicant is a caregiver, the registry identification number(s) of the patient(s) the caregiver applicant is authorized to grow for, a sufficiently specific identification of the single grow location selected by the applicant, and current contact information.
 - 3. Before issuing medical marijuana plant tags, DBR will verify with DOH the validity of the applicant's registry identification card and, if the applicant is a caregiver, the validity of the registry identification card(s) of the patient(s) the caregiver applicant is authorized to grow for as well as confirm the registration of the grow location in accordance with R.I. Gen. Laws § 21-28.6-15(a)(2) and R.I. Gen. Laws § 21-28.6-15(a)(3).
 - 4. DBR will provide further guidance on the mechanism for paying the plant tag set fees for initial applications and annual renewal.
 - 5. DBR will provide further guidance on the mechanism for receiving plant tags from DBR, including information about pick up schedule and authorization.
- G. Conditions for Obtaining and Maintaining Plant Tags

- 1. The rules in this subsection are deemed to be continuing conditions for obtaining and maintaining medical marijuana plant tags.
- 2. A medical marijuana plant tag holder may not grow marijuana at more than one location. R.I. Gen. Laws § 21-28.6-4(q).
- 3. Medical marijuana plant tags will only be issued under the express and continuing condition that they will only be used for plants that are stored in a "secure indoor structure." The secure indoor structure shall satisfy the following parameters:
 - a. Enclosed area with four walls and a roof.
 - b. Equipped with locks and any other appropriate security devices that limit access to the individual authorized to grow the marijuana. Locks must be sufficient to discourage theft and unauthorized entrance.
 - c. Marijuana is not visible from the street or other public areas.
 - d. Reasonable efforts must be taken to prevent marijuana plant odors from exiting the building to an extent that would significantly alter the environmental odor outside.
 - e. For licensed cooperative cultivations, consult Section 1.8(F), for any additional location restrictions and/or security requirements.
- 4. Medical marijuana plant tags may only be used by the individual and/or licensed cooperative cultivation to whom and at the location for which they were issued. They may not be transferred or assigned.
- 5. Medical marijuana plant tags shall not be altered or duplicated.
- 6. As a continuing condition of holding plant tags, plant tag holders may not pursue any marijuana transaction that is in violation of the Act, including pursuing such a transaction by online advertising.
- H. Plant Tag Data
 - 1. Medical marijuana plant tags shall be printed with, electronically embedded with, or otherwise contain the following plant tag data:
 - a. Unique numerical or alpha-numerical identifiers:
 - (1) For a qualified patient cardholder who is growing individually, the identifier shall correspond to his or her DOH patient registry identification card number.

- (2) For a primary caregiver cardholder who is growing individually, the identifier shall correspond to his or her DOH caregiver registry identification card number and the number(s) of the qualified patient cardholder(s) he or she is registered with DOH to grow for.
- (3) For cooperative cultivations, the medical marijuana plant tag shall contain identifiers that correspond to both the DBR license number for the cooperative cultivation as well as the DOH registry identification card numbers for the qualified patient cardholders and/or primary caregiver cardholders and their associated patients forming the cooperative cultivation.
- b. Expiration date of the plant tag.
- c. Registered or licensed grow location.
- d. Designation as to whether the medical marijuana plant tag is for a mature plant or seedling.
- e. Any other information DBR deems appropriate that is not subject to the patient privacy provisions of the Act.
- 2. DBR and DOH will have access to the above medical marijuana plant tag data, through the Medical Marijuana Program Tracking System, or, if the System is not available, through other data sharing mechanisms.
- I. Placement of Plant Tags

Plant tags shall be placed in a manner so as to clearly display their association with a particular plant, such as affixed to the plant itself, on the growing receptacle, or in the growing medium.

- J. Duty to Update Application Information; Approved Transports of Tagged Medical Marijuana Plants
 - 1. The medical marijuana plant tag holder has a continuing obligation to update all application information in a timely manner. Contact information (legal name, physical and mailing address, phone number, e-mail address, etc.) must be updated no later than three (3) business days after the change.
 - 2. Change of information regarding the grow location must be provided to DBR at least ten (10) business days before the change.

- 3. Medical marijuana plant tags do not authorize transport of marijuana plants outside the borders of the state of Rhode Island under any circumstances.
- 4. Medical marijuana plant tags are non-transferrable to another location within the state of Rhode Island unless the steps outlined in this section are followed.
- 5. If an individual qualified patient cardholder or primary caregiver cardholder who is not growing as part of a cooperative cultivation needs to change his or her registered grow location, the individual shall follow the following steps prior to transportation of any marijuana plants:
 - a. The individual must apply to DBR for transfer of the marijuana plant tags, on such forms and through such mechanisms as DBR designates.
 - b. Then, DBR will verify with DOH the continued validity of the registry identification card(s) for which the tags were issued as well as confirm the registration of the new grow location.
 - c. Once the change of location application is processed, the transport shall be conducted within the time period prescribed and accompanied by a DBR receipt.
- 6. The medical marijuana plant tag procedures surrounding any change in grow location for a cooperative cultivation and transportation of the plants of an individual patient or caregiver upon dissolution or disassociation with the cooperative cultivation is addressed in Section 1.9(R).
- K. Lost and Stolen Tags and DBR-Mandated Tag Replacement
 - 1. Any stolen or lost medical marijuana plant tags must be reported to DBR and law enforcement within one (1) business day that the tag holder becomes aware of the theft or loss of the tags.
 - 2. The circumstances surrounding the loss or theft must be disclosed to DBR.
 - 3. If DBR determines that the loss or theft of the tags is the result of improper tag use in violation of these regulations or the Act, then DBR may refuse to issue replacement tags.
 - 4. For any periodic recall of tags by DBR (circumstances such as wearing out, new technology, etc.), no replacement cost will be assessed to the tag holder.

- L. DBR Processes for Monitoring and Verifying Compliance with Tagging Requirements and Marijuana Plant Possession Limits
 - 1. If DBR has reasonable grounds to believe that a medical marijuana plant tag holder, a primary caregiver who has not obtained or renewed tags, or a qualified patient cardholder who has made an election to grow who has not obtained or renewed tags, may be in violation of the tagging requirements and/or plant possession limits set forth in the Act and/or these regulations, the below steps may be taken to verify compliance or prompt the person to come into compliance.
 - 2. First Written Notice: A written notice may be sent to the person explaining the tagging requirements and plant possession limits set forth in the Act and these regulations and why the DBR has reason to believe the person may be out of compliance and outlining the information the person may provide and/or the action(s) the person may take to verify or come into compliance. The recipient will have ten (10) business days from the date of mailing to reply to this notice.
 - 3. Second Written Notice: If the recipient fails to respond to the first written notice with information that verifies compliance or fails to take the necessary actions to come into compliance, a second written notice may be sent and the recipient will have an additional ten (10) business days from the date of mailing to reply.
 - 4. Alternative Contact Attempt: If the recipient fails to respond to the second written notice with information that verifies compliance or fails to take the necessary actions to come into compliance, the DBR may attempt to contact the person utilizing other contact methods through information provided on any tag purchasing form submitted to DBR (e.g. telephone) or other contact information reasonably obtained by DBR (e.g. public telephone listings).
 - 5. Reasonable Inspection: If an alternative contact attempt has been unsuccessful or, if after ten (10) business days following an alternative contact, the person has not yet provided information that verifies compliance or taken the necessary actions to come into compliance, then the person may be subject to reasonable inspection by DBR to ensure compliance with the tagging requirements and plant possession limits set forth in the Act and these regulations. DBR shall make an effort to schedule inspections in advance.
- M. Revocation of Medical Marijuana Plant Tags
 - 1. R.I. Gen. Laws § 21-28.6-15(b)(1) authorizes DBR to revoke medical marijuana plant tags for violation of any provision of the Act, the DBR Regulations, or the DOH Regulations.

- 2. Grounds for revocation of medical marijuana plant tags shall include, but are not limited to, failure to maintain or timely renew the required underlying qualifying patient, primary caregiver, or cooperative cultivation registration or license, as applicable, which is a legal prerequisite to obtaining the medical marijuana plant tag and being able to grow medical marijuana under the Act; having excess and/or untagged plants; misrepresentation in applying for plant tags; permitting unauthorized use of tags by another party; growing in more than one location; and transferring plants from the registered grow location without complying with the rules for said transport.
- 3. If DOH revokes the registration of a primary caregiver due to disqualifying criminal information as delineated in the Act or for any other reason, that primary caregiver's medical marijuana plant tags shall be automatically and immediately revoked by DBR.
- 4. If DOH revokes the registration of a patient for any reason, any medical marijuana plant tags issued to that patient and/or issued to any caregiver registered with DOH to grow for that patient shall be automatically and immediately revoked by DBR.
- 5. Before medical marijuana plant tags are revoked pursuant to this section, the tag holder will be given ten (10) business days advance notice to destroy the marijuana plants that were previously associated with the plant tags and to then return said plant tags within the 10 day timeframe.
- 6. The fact that a patient or primary caregiver is a member of a cooperative cultivation shall not in any way preclude revocation of their medical marijuana plant tags as provided in this subsection.
- N. Administrative Penalties
 - Pursuant to R.I. Gen. Laws § 21-28.6-15(b)(3), as to any patient cardholder, primary caregiver cardholder, or licensed cooperative cultivation who is found to have mature marijuana plants that are within the relevant possession limits of the Act but which do not have valid medical marijuana tags, DBR may impose an administrative penalty up to the total fee that would be paid by a cardholder or licensee who purchased medical marijuana plant tags for such plants in compliance with the Act.
 - 2. Pursuant to R.I. Gen. Laws § 21-28.6-15(b)(4), as to any patient cardholder, primary caregiver cardholder, or licensed cooperative cultivation who is found to have mature marijuana plants that exceed the relevant possession limits of the Act, DBR may impose an administrative penalty of no less than the total fee that would be paid by a cardholder or licensee who purchased medical marijuana plant tags for such plants in compliance with the Act, which fee is twenty five dollars (\$25) assessed

per plant. DBR hereby sets the maximum administrative penalty at five thousand dollars (\$5,000) assessed per plant. Within the \$25 - \$5000 fine which may be assessed per plant under this paragraph, DBR adopts the following schedule:

Number of plants exceeding the relevant possession limits of the Act	Fine assessed per plant
1 – 3 plants over limit	\$25 assessed per plant
4 – 8 plants over limit	\$100 assessed per plant
9 – 12 plants over limit	\$250 assessed per plant
13 – 15 plants over limit	\$1000 assessed per plant
16 – 24 plants over limit	\$2500 assessed per plant
25 or more plants over limit	\$5000 assessed per plant

- O. Criminal Penalties and Law Enforcement
 - R.I. Gen. Laws § 21-28.6-15(b)(4) provides that any administrative penalties for possession of marijuana plants in excess of the numerical limits of the Act may be in addition to the criminal penalties provided for by § 21-33 28.6-9, subsection (c) of which provides for arrest and prosecution under Chapter 28 of Title 21 (the "Rhode Island Controlled Substances Act").
 - 2. Nothing in this section shall alter or impair the ability of law enforcement to confiscate excess, untagged, and/or invalidly tagged marijuana plants and revoked and/or otherwise invalid plant tags in accordance with applicable criminal law and procedures.
 - 3. DBR may notify law enforcement if it reasonably believes a tag holder is engaged in a material violation of the Act or these regulations.
 - 4. Law enforcement may be granted access to the Medical Marijuana Program Tracking System to verify the validity of plant tags and tag data, or, if the System is not available, through other data sharing mechanisms, in accordance with applicable law.
- P. Return of Plant Tags

- 1. When return of tags is required by these regulations, the medical marijuana plants associated with those tags shall be destroyed prior to the required return date.
- 2. A patient shall return his or her medical marijuana plant tags to DBR within ten business (10) business days of any of the following occurrences: a) election to no longer grow medical marijuana for himself or herself, b) voluntary surrender of the registry identification card, or c) revocation of the registry identification card.
- 3. A primary caregiver shall return all medical marijuana plant tags associated with a particular patient within ten (10) business days of any of the following occurrences concerning that patient: a) death, b) termination of the relationship with the primary caregiver, c) voluntary surrender of the registry identification card, or d) revocation of the registry identification card. If during such ten (10) business day period, the primary caregiver re-associates with another qualified patient cardholder through DOH and re-associates the tags to the other existing or new patient by registry identification number through DBR, the plant tags need not be returned.
- 4. A primary caregiver shall return each and every medical marijuana plant tag within ten (10) business days of his or her voluntary surrender of or DOH's revocation of his or her registry identification card.
- 5. The fact that a patient or primary caregiver is a member of a cooperative cultivation shall not in any way relieve his or her individual medical marijuana plant tag return obligations under this subsection.
- 6. DBR will provide a person returning medical marijuana plant tags with a receipt documenting the return.
- 7. For additional provisions regarding return of tags associated with licensed cooperative cultivations, consult Section 1.8(S).

1.10 Severability

If any provision of the DBR Regulations, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of the DBR Regulations which can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable.

Exhibit E

ZONING ORDINANCE AMENDMENT

THE TOWN OF SMITHFIELD HEREBY ORDAINS:

<u>Section 1</u>. A new Section 4.4.L. shall be added to the Smithfield Zoning Ordinance as follows:

ARTICLE 4 - USE REGULATIONS

§4.4.L. Medical Marijuana.

A. Definitions. As used in this section, the following terms shall have the meanings indicated. Any terms not defined herein shall be defined by reference to RIGL § 21-28.6-3.

CARDHOLDER -- means a qualifying patient or a primary caregiver who has registered with the Rhode Island Department of Health and has been issued and possesses a valid registry identification card.

CAREGIVER CULTIVATION -- means marijuana cultivation for medical use only by a single registered caregiver cardholder, as defined in RIGL Chapter 21-28.6.

COMPASSION CENTER -- means a not-for-profit corporation subject to the provisions of RIGL Chapter 7-6, and registered under RIGL § 21-28.6-12 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and/or related supplies and educational materials, to patient cardholders and/or their registered caregiver cardholder, who have designated it as one of their primary caregivers.

COMPASSION CENTER CARDHOLDER -- means a principal officer, board member, employee, volunteer, or agent of a compassion center who has registered with the Rhode Island Department of Health and has been issued and possesses a valid registry identification card.

MARIJUANA STORE -- means any profit or non-profit retail establishment at which the sale or use of marijuana, medical or otherwise, takes place, including without limitation a so-called "Vape Lounge" or "Vapor Lounge". This shall not include a Compassion Center regulated and licensed by the State of Rhode Island, as defined herein.

NON-RESIDENTIAL COOPERATIVE CULTIVATION -- means two or more cardholders who cooperatively cultivate marijuana in a non-residential zoning district subject to the restrictions set forth in RIGL § 21-28.6-14 and this section.

PATIENT CULTIVATION -- means marijuana cultivation by a single registered patient cardholder for medical use only, as defined in RIGL Chapter 21-28.6.

RESIDENTIAL COOPERATIVE CULTIVATION -- means two or more cardholders who cooperatively cultivate marijuana in a residential zoning district subject to the restrictions set forth in RIGL § 21-28.6-14 and this section.

B. Purpose.

It is the intent of this section to regulate the cultivation and distribution of medical marijuana as allowed by the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act (See RIGL 21-28.6-1 et seq.) Should a provision of this section conflict with any other provision of the Zoning Ordinance, the provision of this section shall be controlling.

C. General Prohibition.

Unless specifically authorized by this section, all growing or cultivation of marijuana is prohibited within the boundaries of the Town of Smithfield.

D. Patient Cultivation.

Patient cultivation, if permitted in the applicable zoning district, shall not be allowed unless each of the following criteria has been met:

(1) Patient cultivation shall only be allowed at the Patient Cardholder's primary residence. If the Patient Cardholder does not own the subject property, the owner(s) of the subject property shall provide written acknowledgment and approval of the proposed use which shall be appropriately notarized prior to review by the Zoning Official.

(2) The Patient Cardholder shall apply for all appropriate approvals and inspections with the Smithfield Fire Department. The Fire Department shall review the application for permits pursuant to RIGL 23-28.1 et seq. All permits applied for hereunder and documents associated therewith shall be confidential in accordance with the federal Health Insurance Portability and Accountability Act and RIGL § 21-28.6-6(k).

(3) The Patient Cardholder shall apply for a Zoning Certificate, and the Patient Cardholder or a licensed contractor shall apply for all appropriate Zoning, Building, Electrical, Mechanical and Plumbing Permits as required by the Rhode Island State Building Code. The Building Official shall review applications for permits pursuant to RIGL 23-27-100.01 et seq. The application for a Zoning Certificate shall include, at a minimum, the following documentation:

- (a) A detailed and accurate narrative description of the proposed cultivation operation;
- (b) Proof of registration with the Rhode Island State Police if required by State law;
- (c) Proof of approval of the proposed project by the Smithfield Bureau of Fire Prevention;
- (d) Building plans signed and stamped by a Rhode Island licensed architect or engineer, including project certification if required by Section 128.0 of the Rhode Island State Building Code; and
- (e) Evidence of approved sewer or ISDS service.

All permits applied for hereunder and documents associated therewith shall be confidential in accordance with the federal Health Insurance Portability and Accountability Act and RIGL § 21-28.6-6(k).

(4) In addition to the requirements above, the Patient Cardholder shall demonstrate to the Building Official that the following requirements have been met:

- (a) That the area used for growing is secured by locked doors;
- (b) That the area used for growing has two (2) means of egress;
- (c) That the area used for growing shall not be within ten (10) feet of a heating or other ignition source such as an electric, propane, natural gas or oil fired furnace or heater, or such larger distance as my be required by manufacturer specifications;
- (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;
- (e) That the area used for growing shall have carbon filters installed to reduce odors and that proper measures are to be employed to prevent odors from reaching neighboring properties; and
- (f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(5) Possession Limits: Since it is the intent of the Town of Smithfield to limit Patient Cultivation to the amount of marijuana that the Patient reasonably needs for personal medial use, and to prevent any excess marijuana from being sold or otherwise distributed to third parties, Patient Cultivation possession limits shall be as follows:

Possession Limits: Patient Cultivation possession limits shall be as follows:

	Mature Plants	Immature Plants (Seedlings) and Unusable Marijuana	Usable Marijuana			
Patient Cardholder	2 plants	2 plants	2.5 Ounces			

E. Caregiver Cultivation.

Caregiver Cultivation, as defined in this section, shall be prohibited in all Zoning Districts.

- F. Cooperative Cultivation.
- (1) Residential Cooperative Cultivation, as defined in this section, shall be prohibited in all Zoning Districts.
- (2) Non-Residential Cooperative Cultivation, as defined in this section, shall be prohibited in all Zoning Districts.
- G. Compassion Centers.

Compassion center uses, as established under RIGL § 21-28.6-1 et seq. shall be prohibited in all zoning districts in Smithfield except in the Industrial zone and the Highway Commercial zone and only upon the grant of a Special Use Permit in accordance with § 10.8 of

the Zoning Ordinance. Additionally, such Special Use Permit shall not be granted unless each of the following standards has been met:

- (1) The application for a Special Use Permit pursuant to this section shall provide the legal name and address of the compassion center, a copy of the articles of incorporation of the compassion center, and the name, address and date of birth of each principal officer and board member of the compassion center.
- (2) In addition to the findings required by § 10.8 of the Zoning Ordinance, the Special Use Permit shall not be granted unless the Zoning Board of Review makes the following additional findings:
 - (a) That the requested use at the proposed location will not adversely affect neighboring properties;
 - (b) That the requested use at the proposed location will not adversely affect the use of any property used for a public or private school, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;
 - (c) That the requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area; and
 - (d) That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under construction within the immediate neighborhood, so as to prevent the diminishment or impairment of property values within the neighborhood.
- (3) Location.
 - (a) No Compassion Center shall not be located within:
 - One thousand feet of the nearest residential zoning district, or one thousand feet of the lot line of a residence which is a nonconforming use in a nonresidential zone in existence as of the effective date of this section; or
 - (2) One thousand five hundred feet of the nearest house of worship, public or private school, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate; or
 - (3) Two thousand feet of any other compassion center or cooperative cultivation site; or
 - (4) One thousand feet of any of the Smithfield Town lines.
 - (b) The distances specified above shall be measured by a straight line from the nearest property line of the premises on which the proposed compassion

center use is to be located to the nearest boundary line of a residential zoning district or to the nearest property line of any of the other designated uses set forth above.

- (4) Hours of operation.
 - (a) The proposed compassion center hours of operation shall be limited to 8:00 a.m. to 8:00 p.m.
- (5) Lighting.
 - (a) Lighting shall adequately illuminate the compassion center, its immediate surrounding area, any accessory uses, including storage areas, the parking lots, the compassion center's front facade, and any adjoining public sidewalk.
 - (b) Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
- (6) Security.
 - (a) The proposed Compassion Center shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and shall insure that each location has an operational surveillance system and security alarm system.
- (7) Parking.
 - (a) All uses permitted under this section shall comply with the off-street parking and loading requirements and regulations as set forth in the Zoning Ordinance.
- (8) Signage.
 - (a) No Compassion Center shall be allowed a free-standing accessory sign. All signage and advertising for a Compassion Center shall comply with all applicable provisions of the Zoning Ordinance. In addition, no signage or advertising shall use the word "marijuana" or "cannabis" or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word "medical" in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign. Such signage and advertising must clearly indicate that the products and services are offered only for medical marijuana patients and primary caregivers.
- (9) No Compassion Center shall be established prior to approval of a Special Use Permit therefor by the Zoning Board of Review with the technical advice specified in Section 10.9 of the Zoning Ordinance. The site plan shall depict all existing and proposed buildings, parking spaces, driveways, service areas and other open uses. In addition to all other restrictions defined in this section, the site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and the property line of all other abutting uses.

- (10) After approval of the Special Use Permit, Land Development Review shall be conducted by the Planning Board.
- (11) As a condition of the approval of a Special Use Permit, the Compassion Center must satisfy all the requirements set forth in Subsections D.(2), (3), and (4) of this section.
- (12) Possession Limits: Compassion Center possession limits shall be as follows unless a lesser limit is otherwise stated in the Rhode Island General Laws.

Compassion Center	Inventory of seedlings, plants and usable marijuana limited to reflect the projected needs of
	registered qualifying patients.

H. Marijuana Extraction.

The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all zoning districts.

I. Odor Containment.

It shall be a violation of this section if any odor from a Patient Cultivation or Compassion Center is detected by a person outside the boundaries of the lot on which the cultivation is conducted.

- J. Enforcement
- (1) Any person or organization found to be in violation of this section shall be subject to enforcement in accordance with the major violation provisions of Section 10.6 of the Zoning Ordinance. The Town may pursue its enforcement remedies hereunder either in the Smithfield Municipal Court or in a State court of appropriate jurisdiction.
- (2) All unpermitted pre-existing cultivations must comply with the requirements of this section.
- (3) All uses permitted under this section shall comply fully with all licensing requirements of the Town of Smithfield and laws of the State of Rhode Island.

<u>Section 2</u>. Section 4.3 of Article 4 - Use Regulations -- Table of Uses -- is hereby amended by adding thereto the following:

4.3 TABLE OF USES

P=Permitted by RIGHT S=Use Permitted by SPECIAL USE PERMIT N= Use Not Permitted

Zoning		ZONING DISTRICTS												
	R-200	R-80	R-Med	R-20	R-20M	MU	V	С	HC	LI	I	PC	PD	PCD-B
L. MEDICAL MARIJUANA														
1. Patient Cultivation	Р	Р	Р	Р	N	N	N	Ν	Ν	Ν	Ν	Ν	N	
2. Caregiver Cultivation	Ν	N	N	Ν	N	N	N	Ν	Ν	Ν	Ν	Ν	N	
3. Residential Cooperative Cultivation	Ν	N	N	Ν	N	N	N	Ν	Ν	Ν	Ν	Ν	N	
4. Non-Residential Cooperative Cultivation	Ν	N	N	Ν	N	N	N	Ν	Ν	Ν	Ν	Ν	N	
5, Compassion Center	N	N	N	Ν	N	Ν	N	Ν	S	Ν	S	Ν	N	
6. Marijuana Store	Ν	N	N	N	N	N	N	Ν	Ν	Ν	Ν	Ν	N	

<u>Section 3.</u> This Ordinance Amendment shall take effect upon passage.

ZONING ORDINANCE AMENDMENT SPONSORED BY: ZONING ORDINANCE AMENDMENT APPROVED AS TO FORM:

Paul A. Santucci Town Council President Edmund L. Alves, Jr. Town Solicitor

Exhibit F

Case Number: PC-2017-2989 Filed in Providence/Bristol County Superior Court Submitter: 7/17/2017 4:555 for SMITHFIELD TOWN COUNCIL MEETING Envelope: 11218 truesday, April 18, 2017 Reviewer: Lynn Place: Smithfield Town Hall Time: 6:45 P.M.

Present:	Town Council President Paul M. Santucci					
	Town Council Vice-President Alberto J. LaGreca, Jr.					
	Town Council Member Maxine A. Cavanagh					
	Town Council Member Suzanna L. Alba					
	Town Council Member T. Michael Lawton					
	Town Solicitor Edmund L. Alves, Jr.					
	Town Manager Dennis G. Finlay					
	Town Clerk Carol A. Aquilante					

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, to convene in closed session pursuant to RI General Laws Sec. 42-46-5(a)(1), Personnel, to interview Richard Levesque for possible appointment to a Town Board or Commission; with the Closed Session meeting minutes to be sealed. Motion is approved by a unanimous 5/0 vote.

- I. Council President Santucci calls the Tuesday, April 18, 2017 Smithfield Town Council meeting to order at 7:05 p.m.
- II. Town Council President Santucci offers a prayer for Elodie Blackmore and John Tassoni, Sr.
- III. Town Council President Santucci conducts a salute to the flag.
- IV. The Emergency Evacuation and Health Announcement is made by Town Manager Dennis Finlay.

V. Presentation:

Elks Organization

Edward Cooke and Timothy Chilinski, Smithfield Elks Lodge, present Town Manager Finlay with the Citizen of the Year Award from the Benevolent Order of the Smithfield Elks Lodge #2359.

Town Manager Finlay expresses his thanks to the Smithfield Elks Lodge for this great honor. Town Manager Finlay explains that he has always tried to treat everyone fairly and equitable through the years as Town Manager. Town Manager Finlay would also like to thank the current and past Town Council members for their cooperation. Town Manager Finlay would also like to credit the Department Managers for their support and guidance. Town Manager Finlay also extends his appreciation to his wife Renee for her years of support and dedication to him.

VI. Minutes:

A. Move that the minutes of the March 28, 2017 Town Council Work Session be approved, as recorded.

Motion is made by Council member Alba, seconded by Council Vice-President LaGreca, that the minutes of the March 28, 2017 Town Council Town Work Session be approved as recorded. Motion is approved by a unanimous 5/0 vote.

B. Move that the minutes of the April 4, 2017 Town Council Special Meeting be approved, as recorded.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the minutes of the April 4, 2017 Town Council Special Meeting be approved, as recorded. Motion is approved by a unanimous 5/0 vote.

C. Move that the minutes of the April 4, 2017 Town Council meeting be approved, as recorded.

Motion is made by Council member Cavanagh, seconded by Council member Alba, that the minutes of the April 4, 2017 Town Council meeting be approved, as recorded. Motion is approved by a unanimous 5/0 vote.

D. Move that the minutes of the April 4, 2017 Town Council meeting closed session be approved, as recorded, and sealed.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the minutes of the April 4, 2017 Town Council closed session be approved, as recorded and sealed. Motion is approved by a unanimous 5/0 vote.

VII. Consider, discuss, and act upon the following possible appointments:

1. Smithfield Refuse and Recycling Subcommittee with an open term:

Case Number: PC-2017-2989 Filed in Providence/Bristol Control State Stat

Envelope: 1121886 Motion is made by Council member Cavanagh, seconded by Council Vice-President LaGreca, to appoint Robert Buonaccorsi to the Smithfield Refuse and Reviewer: Lynn Recycling Subcommittee with an open term. Motion is approved by a unanimous 5/0 vote.

VIII. Public Hearings:

A. Conduct a Public Hearing to consider adoption of a Zoning Ordinance Amendment to add Section 4.4.L. Medical Marijuana.

Council President Santucci opens the Public Hearing.

Council President Santucci explains that this amendment was drafted in collaboration with the Building/Zoning Official, Fire, Police and Planning Department, it involved the review of existing ordinances from other municipalities; as well as presentation by the Attorney General's Office and the Department of Business Regulation.

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Chief St. Sauveur reads various reports from other Police Departments regarding the growing of medical marijuana. Chief St. Sauveur explains that in certain situations the growing of marijuana has led to thefts, burglary, nuisance complaints, breaking and entering as well as odor complaints during the summer months. Chief St. Sauveur further explains that there is a strong need for this Ordinance to be established, because it is a safety issue to the Town. Chief St. Sauveur states that in some circumstances, growers of marijuana start to grow additional marijuana for additional profit.

Council member Lawton states that the State of Rhode Island allows growers to grow up to twelve (12) plants and this Ordinance Amendment only allows two (2) plants. He asks if this is enough for a patient.

Town Solicitor Alves states that a patient can get from 2-8 oz. per plant, which should be enough to satisfy the maximum legal possession limit of 2.5 oz.

Fire Chief Seltzer reinforces that it is a safety issue and this Ordinance Amendment needs to be in effect due to the illegal growing of marijuana in Smithfield. Chief Seltzer explains that when growing marijuana there has to be properly installed wiring, otherwise it could be a hazard. Chief Seltzer also states that fires are escalated due to the marijuana plants.

Council member Alba asks if there is a way the Town can get a list of medical marijuana card holders.

Chief Seltzer explains that due to the privacy laws, the Town cannot access a list of medical marijuana card holders.

John Serapiglia, Town resident, asks for more details regarding the Ordinance Amendment.

Town Solicitor Alves explains that the Ordinance amendment would impose regulations on Marijuana cultivation in Smithfield based on safety concerns. Town Solicitor Alves further explains that growing Marijuana would not be allowed within the Town except in Residential Zones under regulated circumstances. Town Solicitor Alves explains that an approved patient would be allowed to have two (2) mature plants and two (2) immature plants which would allow for the 2.5 oz. limit, under state law. Town Solicitor Alves further explains that there would be code requirements through the Building/Zoning and Fire Safety specifications that would need to be met. Town Solicitor Alves states that commercial Compassion Center operations would be limited to two (2) districts, Highway Commercial and Industrial only if approved by the Zoning Board with a Special Use Permit. Town Solicitor Alves further states that the Ordinance Amendment would prohibit all other marijuana growing in Town.

Neil Salley, Town resident, explains that he has a next door neighbor who grows marijuana and has been arrested for that crime. Mr. Salley states that many cars going to and from his neighbor's home have out of state license plates. Mr. Salley is concerned with what effect this will have on young people growing up in Smithfield.

Stuart Smith is a licensed caregiver of marijuana and explains that there are many benefits regarding the use of Marijuana for seriously ill patients.

Council member Alba asks if two (2) plants are sufficient for residential growers.

Town Solicitor Alves explains that two (2) plants should be sufficient for residential growers to possess the legal limit of 2.5 oz. so there is no excess marijuana for sale.

Joanne Leppanen, R I Patient Advocacy Coalition (RIPAC), explains that this Ordinance Amendment is very extreme. Ms. Leppanen states that there are many patients and caregivers in Smithfield and they are cautious about attending the Town Council meeting this evening. Ms. Leppanen explains that reducing the amount of plants to be grown is not enough for some of the patient's needs. Ms. Leppanen further explains that this Ordinance Amendment would reduce the amount of caregivers and make some people feel unwanted in Smithfield.

Council member Alba would like this matter tabled for further discussion since the patient advocates were not involved in drafting the Ordinance.

Ward Harrison, Town resident, explains that he is registered nurse and he has seen no benefit from using medical marijuana. Mr. Harrison feels that there is over use by people who use medical marijuana.

Colleen Judge, Town resident, explains that she was not contacted as a parent of a school child in Smithfield regarding the preparation of this Ordinance Amendment but she strongly supports this Ordinance. Ms. Judge further explains that she is a psychotherapist and is concerned about the people selling excess marijuana, as well as the potency of the marijuana being sold to the youth in the Town. Ms. Judge is in support of the Ordinance Amendment and the regulations to be imposed and urges passage tonight.

Jared Mofatt, Director of Regulate Rhode Island, is in support of ending the policies of marijuana prohibition. Mr. Moffat explains that there is research that marijuana can be a substantial substitute of opioid use, by using sensible regulations. Mr. Moffat also explains that marijuana has been criminalized for decades and there needs to be more education regarding its benefits. Mr. Moffat does not object to the Ordinance Amendment, but he wants the Town Council to be

Case Number: PC-2017-2989

Filed in Providence whether the state of the Submitted: 7/17/2017:4:55 50 PM Envelope: 1121886

Reviewer: Lynn G. Council Vice-President LaGreca states that it would be much easier for someone who needs medical marijuana to get a prescription to be filled at the pharmacy.

> Mr. Moffat agrees with Council Vice-President LaGreca, and states that it is because of our Federal laws which outlaw marijuana. Mr. Moffat also explains that the FDA would not be able to regulate marijuana.

> Council Vice-President LaGreca states that this Ordinance amendment does not stop the growing of medical marijuana; it would limit the amount of growing.

Gary Tikoian, Town resident, states that at a previous meeting some of the Town Council members were concerned about using organic fertilizer on the fields out of concern for children, but, this is a much more serious threat. The fewer marijuana plants grown in Town would be best for the Town residents and he supports the Ordinance.

Giovanna Donoyan, Town resident and former Superintendent of schools, states that any marijuana use decreases a child's ability to learn. Ms. Donoyan also states that any type of marijuana use is a nuisance in the schools. Ms. Donoyan is in favor of the Ordinance Amendment.

Thomas Hodgkins thanks the Town Council for drafting this Ordinance Amendment. Mr. Hodgkins explains that there are three (3) compassion centers in Rhode Island, and he feels that Smithfield does not need a compassion center. Mr. Hodgkins asks the Town Council to revise the Ordinance Amendment to eliminate compassion centers.

Dina Heroux, Coordinator of the Smithfield Prevention Coalition, encourages the passage of this Ordinance Amendment because many of the students are using marijuana in the schools through vapors. Ms. Heroux explains that the use of marijuana by students at the schools reduces their IQ by 8% and the potency of the marijuana is extremely strong.

Hearing no further comments Council President Santucci closes the Public Hearing.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the Town Council adopts a Zoning Ordinance Amendment to add Section 4.4.L. Medical Marijuana as presented, except Compassion Centers shall be prohibited in all zone including the "Industrial Zone and "Highway Commercial Zone". Motion is approved by a unanimous 5/0 vote.

B. Conduct a Public Hearing to consider Code of Ordinance Amendments to Chapter 46 Historic Preservation Commission, Section 46-8 Powers and Duties, and Section 46-10 Fire Department participation in demolition or fire training exercises.

Council President Santucci opens the Public Hearing.

Robert Leach, Historic Preservation Commission Chair, and Katie Law, Historic Preservation Commission Vice-Chair, make a power point presentation which includes the following matters concerning the Smithfield Historic Preservation Commission:

- Historic Inventory Plaque Program
- Smithfield Historic Archive
- Capron Bridge
- East Smithfield Neighborhood Center ٠
- Stillwater Pedestrian Bridge
- . Amendments to Historic Preservation Ordinance
- Historic Stonewall Workshop and Design Manual
- Town Hall Restorations

*See supporting documentation attached.

Hearing no further comments Council President Santucci closes the Public Hearing.

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, that the Smithfield Town Council adopts a Code of Ordinance Amendment to Chapter 46 Historic Preservation Commission, Section 46-8 Powers and Duties, and Section 46-10 Fire Department participation in demolition or fire training exercises as presented. Motion is approved by a unanimous 5/0 vote.

- C. Conduct a Show-Cause Hearing to consider the possible suspension, revocation, or other sanction regarding the Holiday License at the following listed establishment due to non-renewal or non-compliance with the conditions of renewal:
 - 1. ILoveKickboxing.com Smithfield LLC d/b/a "ILoveKickboxing.com", 400 Putnam Pike (Failure to pay Tangible Taxes current)

Council President Santucci opens the Show-Cause Hearing.

Town Clerk Aquilante states that although "I Love Kickboxing" was served with a summons to appear at this Council meeting, no one is present from that business this evening.

Town Solicitor Alves explains that, if the Council so decides, this agenda item could be continued to the May 2, 2017 Town Council meeting and the company re-summonsed to appear that evening.

Hearing no further comments Council President Santucci closes the Show-Cause Hearing.

Case Number: PC-2017-2989

Filed in Providence Master Stands by Council member Cavanagh, seconded by Council Vice-President LaGreca, to continue this agenda item to the May 2, 2017 Town Submitted: 7/17/2011:15550:00 Motion is approved by a unanimous 5/0 vote.

Envelope: 1121886 Reviewer: Lynn G.

D. Conduct a Public Hearing to consider the approval of outdoor scating and bar service for Copperfield's, Inc. d/b/a "Copperfield's Bar and Grill", located at 9 Cedar Swamp Road, as applied, subject to compliance with all State regulations and local ordinances.

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Council President Santucci states that he will be recusing himself from the agenda item. Council Vice-President LaGreca opens the Public Hearing.

Council member Alba is concerned about smoke outside the restaurant so close to the neighboring karate school.

Mark Saccoccio is in attendance explaining that he has interest in Copperfield's restaurant and asks if State law does not allow people to smoke outside of a restaurant.

Town Solicitor Alves replies that State law allows smoking outside of a restaurant.

Mr. Saccoccio states that patrons smoke outside restaurants all the time State law allows it.

Hearing no further comments Council Vice-President LaGreca closes the Public Hearing.

Motion is made by Council member Lawton, seconded by Council member Cavanagh that the Smithfield Town Council approves outdoor seating and bar service for Copperfield's, Inc. d/b/a "Copperfield's Bar and Grill", located at 9 Cedar Swamp Road, as applied, subject to compliance with all State regulations and local ordinances. Motion is approved by a unanimous 4/0 vote. Council President Santucci recuses himself.

E. Schedule a Public Hearing on May 16, 2017, to consider proposed amendments to Zoning Ordinance Section 6.7 Non-Permanent Structures.

Council President Santucci states that this proposed Ordinance Amendment will allow Industrial Parks to have trailers on the property to be used for storage, if approved by the Zoning Board.

Motion is made by Council Vice-President LaGreca, seconded by Council member Lawton, that the Town Council schedules a Public Hearing on May 16, 2017 to consider proposed amendments to Zoning Ordinance Section 6.7 Non-Permanent Structures. Motion is approved by a unanimous 5/0 vote.

IX. Licenses and Permits:

A. Consider approving a new Holiday Sales License for Oasis Spa, Inc. d/b/a "Oasis Spa, Inc.", 9 Cedar Swamp Road, #9, as applied, subject to compliance with all State regulations and local ordinances.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, to approve a new Holiday Sales License for Oasis Spa, Inc. d/b/a "Oasis Spa, Inc.", 9 Cedar Swamp Road, #9, as applied, subject to compliance with all State regulations and local ordinances. Motion is approved by a unanimous 5/0 vote.

- B. Consider approving the annual renewal of three (3) Holiday Sales Licenses, as listed, as applied, subject to compliance with all State regulations and local ordinances.
 - 1. NEFL, Inc. d/b/a "New England Frozen Lemonade", 280 Douglas Avenue, Providence
 - 2. Tween Brands, Inc. d/b/a "Justice #1188", 371 Putnam Pike, Suite 440
 - 3. Ulta Beauty Salon Cosmetics & Fragrance, Inc. d/b/a "Ulta Beauty", 371 Putnam Pike

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, to approve the annual renewal of three (3) Holiday Sales Licenses, as listed, as applied, subject to compliance with all State regulations and local ordinances.

- 1. NEFL, Inc. d/b/a "New England Frozen Lemonade", 280 Douglas Avenue, Providence
- 2. Tween Brands, Inc. d/b/a "Justice #1188", 371 Putnam Pike, Suite 440
- 3. Ulta Beauty Salon Cosmetics & Fragrance, Inc. d/b/a "Ulta Beauty", 371 Putnam Pike

Motion is approved by a unanimous 5/0 vote.

- C. Consider approving the annual renewal of two (2) Massage Therapy Licenses, as listed, as applied, subject to compliance with all State regulations and local ordinances:
 - 1. Kayla Ann Perry working at "Soothing Touch Spa", 180C Pleasant View Avenue
 - 2. Shelly Allsworth working at "Allsworth Massage Therapy", 600 Putnam Pike, Suite 10

Motion is made by Council member Lawton, seconded by Council Vice-President LaGreca, to approve the annual renewal of two (2) Massage Therapy Licenses, as listed, as applied, subject to compliance with all State regulations and local ordinances:

- 1. Kayla Ann Perry working at "Soothing Touch Spa", 180C Pleasant View Avenue
- 2. Shelly Allsworth working at "Allsworth Massage Therapy", 600 Putnam Pike, Suite 10

Case Number: PC-2017-2989 Filed in Provide National Approxed by an animous 5/0 vote. Submitted: 7/17/2017 4:55:50 PM

Envelope: 1121886

- Reviewer: Lynn 6.
 - Consider scheduling a Show Cause Hearing on Tuesday, May 2, 2017, to consider the possible suspension, revocation, or other sanction regarding Holiday Sales Licenses at the following establishments due to non-renewal or non-compliance with the conditions of renewal:
 - 1. Car Guy, Inc., d/b/a "401 Auto Sales Service", 293 Waterman Avenue (Failure to submit renewal application).
 - 2. Hill Top Gardens, LLC d/b/a "Hill Top Gardens", 363 Putnam Pike (Failure to pay tangible taxes current).
 - 3. Lane Bryant, Inc. d/b/a "Lane Bryant", 371 Putnam Pike, Suite 430 (Failure to submit renewal application).
 - 4. Muc Thi Vu d/b/a "Hollywood Nails", 445 Putnam Pike (Failure to submit renewal application).
 - 5. Muqudas Raza d/b/a "DB Mart", 200 Pleasant View Avenue (Failure to pay tangible taxes current).
 - 6. Palagi 2000, Inc. d/b/a "Palagis Ice Cream", 55 Bacon Street, Pawtucket (Failure to submit renewal application).
 - 7. Parker's Vinyl Creations, Ltd., d/b/a "Scoops", 265 Putnam Pike (Failure to submit renewal application).
 - 8. Victus Group, Inc. d/b/a "Delizioso Deli", 1201 Douglas Pike (Failure to submit renewal application).

Town Clerk Aquilante explains that the four of these establishments are now in compliance.

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, to schedule Show Cause Hearings on Tuesday, May 2, 2017, to consider the possible suspension, revocation, or other sanction regarding Holiday Sales Licenses at the following establishments due to non-renewal or non-compliance with the conditions of renewal:

- 1. Car Guy, Inc., d/b/a "401 Auto Sales Service", 293 Waterman Avenue (Failure to submit renewal application).
- 2. Lane Bryant, Inc. d/b/a "Lane Bryant", 371 Putnam Pike, Suite 430 (Failure to submit renewal application).
- 3. Muc Thi Vu d/b/a "Hollywood Nails", 445 Putnam Pike (Failure to submit renewal application).
- 4. Palagi 2000, Inc. d/b/a "Palagis Ice Cream", 55 Bacon Street, Pawtucket (Failure to submit renewal application).

Motion is approved by a unanimous 5/0 vote.

- E. Consider approving the annual renewal of one (1) Massage Establishment License, as applied, subject to compliance with all State regulations and local ordinances:
 - 1. Shelly Allsworth d/b/a "Allsworth Massage Threapy", 600 Putnam Pike, Suite 10

Motion is made by Council Vice-President LaGreca, seconded by Council member Cavanagh, that the Town Council approves the annual renewal of one (1) Massage Establishment License, as applied, subject to compliance with all State regulations and local ordinances:

1. Shelly Allsworth d/b/a "Allsworth Massage Threapy", 600 Putnam Pike, Suite 10

Motion is approved by a unanimous 5/0 vote.

F. Consider approving a new Sidewalk Sales License for Blackbird Farm, LLC d/b/a "Blackbird Farm", to hold a Farmer's Market every Friday, beginning May 26, 2017 through late October, with the hours of operation to be from 4:00 p.m. to 7:00 p.m., on property located at 660 Douglas Pike, as applied, subject to compliance with all State regulations and local ordinances.

Council President Santucci states that the correct address of the Sidewalk Sale should be "660 Douglas Pike".

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, to approve a new Sidewalk Sales License for Blackbird Farm, LLC d/b/a "Blackbird Farm", to hold a Farmer's Market every Friday, beginning May 26, 2017 through late October, with the hours of operation to be from 4:00 p.m. to 7:00 p.m., on property located at 660 Douglas Pike, as applied, subject to compliance with all State regulations and local ordinances. Motion is approved by a unanimous 5/0 vote.

X. Old Business:

A. Consider, discuss, and act upon a Pilot Program for the Smithfield Youth Soccer Association (SYSA) for temporary lights at Deerfield Park.

Council President Santucci and Council member Lawton state that they are recusing themselves from this agenda item.

Town Manager Finlay states that Anthony Bettencourt, Director of Competitive Soccer Division, was not able to attend this evening's Town Council meeting. Town Manager Finlay states that there have been no neighbor objections to the temporary lights at Deerfield Park. The Police Department reports that there are no Noise Ordinance violations.

Motion is made by Council member Cavanagh, seconded by Council member Alba, to approve the Pilot Program for the Smithfield Youth Soccer Association (SYSA) for temporary lights at Deerfield Park through May 31, 2017. Motion is approved by a unanimous 3/0 vote. Council President Santucci and Council member Lawton having recused.

XI. New Business:

A. Consider, discuss, and act upon a proposed Purchasing Resolution.

Council President Santucci reads the proposed Purchasing Resolution.

Case Number: PC-2017-2989

Filed in Provide Courses Stretcher Alba appendions the competitive bidding process that is in effect does not understand why it has to be amended. Council member Alba states 5 Submitted: 7/17 that the Wispole Lights reports found nothing illegal, and passage of this Resolution could be an additional cost to the taxpayers by consistently going out to bid. Envelope: 1121886

Reviewer: Lynn Council member Cavanagh states that we do not know if the Whipple Lights Project cost too much since the Town did not go out to bid.

Town Manager Finlay states that currently any contract in excess of \$10,000 needs to go out to bid and if it was \$5,000, it may slow down the process.

Randy Rossi, Finance Director, states that sometimes work needs to be completed immediately without going out to bid.

Council Vice-President LaGreca explains that this Resolution is proposed because the electrical services contract for smaller jobs that needed to be done on an immediate basis costing under \$5,000. Council Vice-President LaGreca further explains that the electrical services contract was not designed to give all electrical work to one business in Town.

Thomas Leddy, Sullivan & McLaughlin, explains that he previously owned Leddy Electric and he has done a great deal of work for the Town. Mr. Leddy states that when he is contacted, the company comes out to review the job and submit a price quote for the work to be done. Mr. Leddy further states that reducing the amount to \$5,000 would discourage work being done in the Town by other businesses. Mr. Leddy explains Sullivan & McLaughlin has donated over \$17,000 in labor for the Whipple Field Lighting project.

Gary Tikoian, Town resident, explains that he worked for many years with Narragansett Electric Company, for underground problems. Mr. Tikoian also explains that Greenville Water District has a contract with Boyle & Fogarty for all of their projects and emergencies. Mr. Tikoian explains that a contract is necessary for regular maintenance as well as for emergencies in the Town. He thinks the contractor should get big jobs as well as small ones.

Jackson Despres, Town resident, states that some people where not happy with the Whipple Field Lighting Project and that this is why this Resolution is being established. Mr. Despres explains that many companies donated materials, labor, Union labor, which he thinks saved the Town well over \$100,000. Mr. Despres explains that the Town benefited from the many hours of labor, had the Town gone out to bid it would have cost the Town a substantial amount of money.

Council President Santucci explains that the resolution is intended to improve the Town's purchasing practices. Contracts for services should generally go out to bid if over \$10,000. Contracts for equipment are better suited for a Master Price Agreement.

Council Vice-President LaGreca explains that the electrical contract was approved approximately ten (10) years ago to allow for small jobs to be done on an immediate basis, instead of going out to bid. The Town can often get a better price through an RFP rather than a Master Price Agreement.

Upon further discussion the Town Council members agree to table this agenda item for further review of purchasing practices.

B. Consider, discuss, and act upon a bid award for Town-wide Electrical Services for the Town and School Department.

Motion is made by Council Vice-President LaGreca, seconded by Council member Alba, that the Smithfield Town Council hereby awards the contract for Town-wide Electrical Services to Sullivan & McLaughlin Companies, Incorporated for a term of February 1, 2017 – January 31, 2019. Motion is approved by a unanimous 5/0 vote.

XII. Public Comment

Council member Alba states that the School Department Search Committee is holding focus groups to get the community more involved. Council member Alba would like to hold focus groups for the Town Manager Search Committee.

Town Manager Finlay states that James Segovis is the Chairman of the Search Committee.

Council member Alba states that she will be contacting Mr. Segovis to ask him to hold a focus group to involve members of the community.

Council President Santucci reads the requirements to hire a Search Committee from the ICMA Recruitment Handbook. Public input is generally not part of the recommended process. Council President Santucci states that he is very satisfied with the five (5) members of the Search Committee that were approved by the Town Council.

Gary Tikoian, Town resident would like to give credit to Robert Seltzer, Fire Chief for attending the entire Town Council meeting this evening. Mr. Tikoian also asks if the new street sweeper has been delivered. Mr. Tikoian explains that by working different shifts throughout the day there would be no need for a new street sweeper and the extra added expense to the Town of \$200,000.

Jackson Despres, Town resident, states that there is no need for a new street sweeper.

Council President Santucci explains that the Town Council toured the Department of Public Works and the current 1993 Elgin undercarriage is in total disrepair. The sweeper issue deserves looking into.

XIII. Announce any closed session votes required to be disclosed pursuant to RI General Laws, Sec. 42-46-4.

Council President Santucci states that there were no votes taken in Executive Session.

Case Number PC-**Motion** 2009 and by Council member Lawton, seconded by Council Vice-President LaGreca, to adjourn the meeting. Motion is approved by a Filed and Providence Bristol County Superior Court Submitted: 7/17/2017 4:55:50 PMte Envelope: 1121886 Reviewer: Lynn G.

Meeting adjourns at 9:45 p.m.

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Town Clerk

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